LAWS

OF THE

STATE

OF

DELAWARE,

FROM THE FOURTEENTH DAY OF OCTOBER, ONE THOUSAND SEVEN HUNDRED, TO THE EIGHTEENTH DAY OF AUGUST, ONE THOUSAND SEVEN HUNDRED AND NINETY-SEVEN.

IN TWO VOLUMES.

VOLUME I.

Published by Authority.

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SECRETARY'S OFFICE, NEW-CASTLE, AUGUST 18, 1797.

I Do certify, that this Edition of the LAWS OF THE STATE OF DELAWARE, *comprised in Two Volumes, printed by Samuel and John Adams, is published pursuant to the Directions of an Act of the Legislature of the said State, passed on the nineteenth Day of June, in the Year One Thousand Seven Hundred and Ninety-three.*

JAMES BOOTH,

Secretary of the State of Delaware.

The following ADDENDA *et* ERRATA, *in Vol. I. with ſome leſſer Errors not noted therein, accumulated much from the Editor of the Notes, in this Impreſſion of the Laws, not having had a View of the Proof-Sheets ſent from the Preſs; and from his having completed and ſent for the Preſs the Notes to the Laws preceding the Year* 1796, *before thoſe of* 1797 *were enacted.*

Page	Line	
51		To 590, incluſive, add the letter "a." to the numerals of each chap. at the head of every page in the margin of Vol. I.
Idem	10	After "hundred" inſert *(a)* and at the bottom of the page, by way of note, add "*(a)* The General Aſſembly aforeſaid was compoſed of Repreſentatives of the people of Pennſylvania, and of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, then ſtiled Territories in their acts of Legiſlation. See the act of union in the Appendix, page 8, and the note in pages 44 to 49."
52	4	*Dele* "13," and inſert "12, page 225."
54	17	After chap. 15. a. add, "and in the Appendix, pages 26, 50, for both thoſe acts."
—	22	After "See Appendix," add, "pages 29, 52."
—	26	After "in the Appendix," add, "page 30."
—	28	After "Appendix," add, "page 36."
55	5	After "See Appendix," add, "page 31."
—	8	After "Repealed," add, "See this act in the Appendix, page 50."
56	laſt	Inſert "a" after "in chap. 54."
59	6	After "See Appendix," add, "page 50."
60	6	After "See Appendix," add, "for this chap. 18. a. page 52."
61	1	Of note *(b)* *dele* "12," and inſert "11."
—	2	Of ſame, add the figure "7," to the figures "13."
—	6	Of ſame, after "chap. 189," add, "a."
62		Line 1 of the note, after "chap. 178." add, "b."
63		In margin, under "Preamble," inſert, "See Appendix, page 57, for this charter."
67	laſt	*Dele* "a" and inſert "b."
71	laſt	After "chap. 6." add, "b."
72	laſt but one.	After "chap. 58." add, "a."
78	6	After "Appendix." add, "pages 53, 72."
87		In margin, oppoſite to line 1 of note (a) inſert, "See Appendix, page 85, for this."
90	laſt	Add, "and chaps. 146. b. and 76. c. directing that executors in all caſes give ſecurity upon the granting of letters teſtamentary, and that teſtamentary guardians ſhall alſo give bond, &c."
93	laſt	*Dele* "page 194."
94	laſt	Add "page 55."
97		In margin, under "Penalty," inſert, "See note *(c)* in next page."
98		In margin, inſert, "Repealed and ſupplied in chap. 134. c."
—	laſt	*Dele* ſect. "13," and inſert "b. ſect. 5."
104	21	After "head," inſert "*(b)*" and at the bottom of the page, by way of note, add, "*(b)* In chap. 124. c. ſect. 8, this part of the puniſhment changed to cutting off the ſoft part of the ear."
120	laſt	Add, "See alſo chap. 67. a. ſect. 3."
131	laſt ſave one,	after "chap. 3." add, "c."
137		In note "*(b)*" after "chap. 27. c." add, "ſect. 1."
145	laſt ſave one	of the note, *dele* "68," and inſert, "67."
146		Add to the note *(a)* "chap. 228. a."
148	laſt	Add, "—and ſee note at *(b)* and its *addenda*."

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Page	Line	
150	last	Add, "with this, that every ſuch freeman muſt be a citizan, reſident in the county in which he is to have a vote, as in art. 2, ſects. 2, 3—art. 3, ſect. 2—art. 8, ſect. 4—and art. 10."
—	—	Add to the manuſcript addition, "See Laws of the United States, vol. 3, chap. 85, page 172, &c. how aliens, and perſons born out of the limits and juriſdiction of the United States, may become citizens, or acquire citizenſhip."
151		In firſt line of note *(l)* after "chap. 207." add, "a."
171	32	After "imported," inſert "*(c)*" and at the bottom of the page, by way of note, add, "*(c)* See after in chap. 114. a. all perſons having paid their paſſage, and free from any indenture of apprenticeſhip or ſervitude, were exempted from this charge—But ſee it revived again, as to Six Cents, in chap. 134. c. ſect. 7, and made payable to the viſiting Phyſician and Health Officer under that act, for the uſe of the poor of the county."
174		In margin of ſect. 3, inſert, "See alſo chap. 52. a."
193	laſt	To note "*(b)*" add, "which in chap. 133. c. is again altered, and the appropriation in chap. 28. c. affirmed."
211		Laſt line of note *(e)* add, "See alſo chap. 225. a. ſect. 8, and chap. 218. b. ſect. 18, That all orphan children, and thoſe of poor perſons not of ability to maintain them, may be bound out apprentices to trades or otherwiſe, by any two Truſtees of the Poor (with the approbation as in this ſect. 3,) or by any two Juſtices of the Peace in their diſcretion, until eighteen and twenty-one."
214		Add, to the note *(d)* "and in chap. 124. c. from ſects. 1, to 6, inclusive, further ſupplied."
220	laſt	*Dele* "68," and inſert, "67."
234		In line 5, of note *(a)* after "March 24," add, "1774."
238		At bottom of the page, as a note to ſect. 9, add, "See in chap. 22. a. ſect. 13."
239	laſt ſave one,	to "chap. 230." add, "a."
242	37	After "year," inſert, "*(d)*" and at the bottom of the page, by way of note, add, "*(d)* See chap. 108. c. ſect. 3, making it a part of the duty of a Grand Juryman who may have knowledge of any free unmarried woman having an illegitimate child, to make information thereof to the next, or ſome Juſtice of the Peace for his county."
248	laſt	After "cents," inſert, "with a."
257	22	After "Appendix," add, "page 62."
259		Line 2, of note *(b)* after "98. c." inſert "ſect. 29."
260	26	Add "*(o)*" and at the bottom of the page, by way of note, add, "*(o)* See chap. 125. c. ſect. 1, paſſed Jan. 19, 1797, the annual meeting of this court to be on the firſt Tueſday in February, and their duties more particularly pointed out in conſequence of laws paſſed ſince this chap. 102. a.—and ſee chap. 136. c. page 1358."
262		In firſt line of note *(g)* *dele* "98," and inſert "28," and after, in ſame line, *dele* "28," and inſert "98,"—and at the end add, "but ſee chap. 119. c. paſſed November 11, 1796, the time for holding the then next Court of Appeal fixed for the firſt Tueſday in February—afterwards, in chap. 125. c. ſect. 4, extended to the laſt Tueſday in March if neceſſary, though after that period, by ſect. 2, of ſaid chap. 125. c. the ſaid Courts of Appeal are to be held annually on the firſt Tueſday in March, except as after ſpecially provided in chap. 136. c. page 1360."
275	laſt	Add, to the note, "—and ſince in chap. 76. c. of January, 1795, to the remaining part of St. George's hundred along the Stone Line."
278		At the end of ſect. 2, add, "*(c)*" and at the bottom of the page, by way of note, add, "*(c)* See chap. 66. a. ſect. 7, page 171, and the note to be added there."
296		At the end of ſect. 14, add, "*(p)*" and at the bottom of the page, by way of note, add, "*(p)* For ſuch ſee the Appendix."
309	laſt ſave one,	*dele* "and," and inſert "out."
317		To laſt line of note *(a)* add, "See alſo chap. 126. c. a ſupplement to ſaid chap. 99. c. for divers alterations therein; and the reſpective notes to chap. 126. c."

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Page	Line	
318		Second line of note *(d)* add the figure "9."
320	35	After "lands," inſert, "*(v)*" and at the bottom of the page, by way of note, add, "*(v)* See ſect. 27, of chap. 99. c. this extended to wood-land in the county of Kent."
321		Laſt of the note there, read "ſects. 3, 6, 10, 27."
326		At bottom of page add, "See chap. 116. b. page 812, &c. "An act for the regulation of certain water griſt mills in New-Caſtle county," and its ſupplement, page 967."
330		At the bottom of the page add, "but ſee after chap. 127. c. paſſed Jan. 21, 1797."
381	34	After "freedom," inſert "*(b)*" and at the bottom of the page, by way of note, add, "*(b)* See chap. 124. c. paſſed Jan. 18, 1797, that verbal contracts thereafter for manumiſſion not to be binding, but all manumiſſions to be in writing, under hand and ſeal of the maſter or miſtreſs, atteſted in his or her preſence by one or more witneſſes, &c. and in ſect. 7, an appeal is given."
385	6	After "Appendix," add, "page 72."
390		At the end of note *(a)* add, "and alſo chap. 126. c. paſſed January 20, 1797, a ſupplement to ſaid chap. 99. c."
393	7	After "paſs," inſert "*(o)*" and at the bottom of the page, by way of note, add, "*(o)* See chaps. 99. c. and 100. c. ſects. 7, reſtraining this power of the Court of Quarter Seſſions as to altering certain roads ſpecified in the ſaid acts—and ſee ſect. 10, of the ſaid reſpective chaps. how private roads ſhall be laid out and ſupported."
422	6	After "guardian," add, "*(e)*" and at the bottom of the page, by way of note, add, "*(e)* Teſtamentary guardians to give like ſecurity, by an act paſſed Feb. 2, 1793, chap. 7. c. ſect 4."
436	laſt	At the end of note *(a)* add, "and after in chap. 124. c. paſſed Jan. 18, 1797, further ſupplied."
441	laſt	At the end of note *(a)* add, "and in chap. 76. c. to the weſtern parts of St. George's hundred, along the Stone Line."
479	laſt	At the end of note *(d)* add, "See alſo chap 108. c. making it a part of the duty of a Conſtable, who may have knowledge of any free unmarried woman having an illegitimate child to make information thereof to the next, or ſome Juſtice of the Peace for his county."
483		In margin of ſect. 3, inſert, "See chap. 232. b—and chap. 94. c."
525		In line 1, of note *(b)* after "including," inſert, "on."
537	laſt ſave one,	after "Appendix," add, "pages 53, 72."
546	laſt	*Dele* "248," and inſert "218."
582	laſt	At the end of note *(g)* add, "—and chap. 229. b. ſect. 6, paſſed Jan. 29, 1791, That Truſtees of the Loan Offices return to him annually an accurate ſtate of the ſame."
584	laſt	At the end of note (*b*) add, "—and alſo chap. 120. c. paſſed January 13, 1797."

In the Appendix, page 72, to the liſt of ſignatures, under the head of "Delaware," after "George Read," add, "Thomas M'Kean," who, though not preſent at a firſt general ſignature, being then with the flying camp in New-Jerſey, had voted for the meaſure, and ſigned the original on his return from thence, and ſo it happened that in the firſt printed copies the name was omitted, and ſuch was the one tranſmitted by Congreſs to this ſtate.

THE CONSTITUTION OF THE United States of America.

WE the People of the United States, in order to form a more perfect Union, eſtabliſh Juſtice, enſure domeſtic Tranquility, provide for the common Defence, promote the general Welfare, and ſecure the Bleſſings of Liberty to our ſelves and our Poſterity, DO ORDAIN AND ESTABLISH *this CONSTITUTION for the* UNITED STATES *of* AMERICA.

ARTICLE I.

SECTION 1. ALL Legiſlative powers herein granted ſhall be veſted in a Congreſs of the United States, which ſhall conſiſt of a Senate and Houſe of Repreſentatives. Legiſlative power.

SECT. 2. The Houſe of Repreſentatives ſhall be compoſed of members choſen every ſecond year by the people of the ſeveral ſtates, and the electors in each ſtate ſhall have the qualifications requiſite for electors of the moſt numerous branch of the State Legiſlature. Of the Houſe of Repreſentatives.

No perſon ſhall be a Repreſentative who ſhall not have attained to the age of twenty-five years, and been ſeven years a citizen of the United States, and who ſhall not, when elected, be an inhabitant of that ſtate in which he ſhall be choſen. Qualification of the members.

Repreſentatives and direct taxes ſhall be apportioned among the ſeveral ſtates which may be includ- Repreſentation and direct taxes, how apportioned.

ed within this union, according to their reſpective numbers, which ſhall be determined by adding to the whole number of free perſons, including thoſe bound to ſervice for a term of years, and excluding Indians not taxed, three-fifths of all other perſons. The actual enumeration ſhall be made within three years after the firſt meeting of the Congreſs of the United States, and within every ſubſequent term of ten years, in ſuch manner as they ſhall by law direct. The number of Repreſentatives ſhall not exceed one for every thirty thouſand, but each ſtate ſhall have at leaſt one Repreſentative; and until ſuch enumeration ſhall be made, the ſtate of New-Hampſhire ſhall be entitled to chuſe three; Maſſachuſetts eight; Rhode-Iſland and Providence Plantations one; Connecticut five; New-York ſix; New-Jerſey four; Pennſylvania eight; Delaware one; Maryland ſix; Virginia ten; North-Carolina five; South-Carolina five; and Georgia three.

Future ratio of Repreſentation.

Preſent ratio.

When vacancies happen in the repreſentation from any ſtate, the executive authority thereof ſhall iſſue writs of election to fill ſuch vacancies.

Of vacancies.

The Houſe of Repreſentatives ſhall chuſe their Speaker and other officers; and ſhall have the ſole power of impeachment.

Of officers, and power of impeachment.

SECT. 3. The Senate of the United States ſhall be compoſed of two Senators from each ſtate, choſen by the Legiſlature thereof, for ſix years; and each Senator ſhall have one vote.

Of the Senate.

Immediately after they ſhall be aſſembled in conſequence of the firſt election, they ſhall be divided as equally as may be into three claſſes. The ſeats of the Senators of the firſt claſs ſhall be vacated at the expiration of the ſecond year, of the ſecond claſs at the expiration of the fourth year, and of the third claſs at the expiration of the ſixth year, ſo that one third may be choſen every ſecond year; and if vacancies happen by reſignation, or otherwiſe, during the receſs of the Legiſlature of any ſtate, the executive thereof may make temporary appointments until the next meeting of the Legiſlature, which ſhall then fill ſuch vacancies.

Of claſſing the Senators.

No perſon ſhall be a Senator who ſhall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who ſhall not when

Qualification of Senators.

elected

elected, be an inhabitant of that ſtate for which he ſhall be choſen.

The Vice-Preſident of the United States ſhall be Preſident of the Senate, but ſhall have no vote, unleſs they be equally divided. Of the Vice-Preſident.

The Senate ſhall chuſe their other officers, and alſo a Preſident *pro tempore* in the abſence of the Vice-Preſident, or when he ſhall exerciſe the office of Preſident of the United States. Of the officers of the Senate.

The Senate ſhall have the ſole power to try all impeachments. When ſitting for that purpoſe, they ſhall be on oath or affirmation. When the Preſident of the United States is tried, the Chief Juſtice ſhall preſide; and no perſon ſhall be convicted, without the concurrence of two-thirds of the members preſent. Of the power to try impeachments.

Judgment in caſes of impeachment ſhall not extend further than to removal from office, and diſqualification to hold and enjoy any office of honour, truſt or profit under the United States; but the party convicted ſhall nevertheleſs be liable and ſubject to indictment, trial, judgment and puniſhment, according to law.

SECT. 4. The times, places and manner of holding elections for Senators and Repreſentatives, ſhall be preſcribed in each ſtate by the Legiſlature thereof: but the Congreſs may at any time by law make or alter ſuch regulations, except as to the places of chuſing Senators. Of elections.

The Congreſs ſhall aſſemble at leaſt once in every year, and ſuch meeting ſhall be on the firſt Monday in December, unleſs they ſhall by law appoint a different day. Of the meeting of Congreſs.

SECT. 5. Each Houſe ſhall be the judge of the elections, returns and qualifications of its own members, and a majority of each ſhall conſtitute a quorum to do buſineſs; but a ſmaller number may adjourn from day to day, and may be authoriſed to compel the attendance of abſent members, in ſuch manner, and under ſuch penalties, as each Houſe may provide. Of the powers of the Houſes reſpectively.

Each Houſe may determine the rules of its proceedings, puniſh its members for diſorderly behaviour, and with the concurrence of two-thirds, expel a member.

Each

Of the publication of the journals.

Each Houſe ſhall keep a journal of its proceedings, and from time to time publiſh the ſame, excepting ſuch parts as may in their judgment require ſecrecy; and the yeas and nays of the members of either Houſe on any queſtion, ſhall, at the deſire of one-fifth of thoſe preſent, be entered on the journal.

Of adjournment.

Neither Houſe, during the ſeſſion of Congreſs, ſhall, without the conſent of the other, adjourn for more than three days, nor to any other place than that in which the two Houſes ſhall be ſitting.

Compenſations and privileges.

SECT. 6. The Senators and Repreſentatives ſhall receive a compenſation for their ſervices, to be aſcertained by law, and paid out of the treaſury of the United States. They ſhall in all caſes, except treaſon, felony and breach of the peace, be privileged from arreſt during their attendance at the ſeſſion of their reſpective Houſes, and in going to and returning from the ſame; and for any ſpeech or debate in either Houſe, they ſhall not be queſtioned in any other place.

Excluſion from certain offices, and diſqualification by office.

No Senator or Repreſentative ſhall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which ſhall have been created, or the emoluments whereof ſhall have been increaſed during ſuch time; and no perſon holding any office under the United States, ſhall be a member of either Houſe during his continuance in office.

Of revenue bills.

SECT. 7. All bills for raiſing revenue ſhall originate in the Houſe of Repreſentatives; but the Senate may propoſe or concur with amendments as on other bills.

Forms of proceeding in paſſing bills.

Every bill which ſhall have paſſed the Houſe of Repreſentatives and the Senate, ſhall, before it become a law, be preſented to the Preſident of the United States; if he approve he ſhall ſign it, but if not he ſhall return it, with his objections, to that Houſe in which it ſhall have originated, who ſhall enter the objections at large on their journal, and proceed to reconſider it. If after ſuch reconſideration, two-thirds of that Houſe ſhall agree to paſs the bill, it ſhall be ſent, together with the objections, to the other Houſe, by which it ſhall likewiſe be reconſidered, and if approved by two-thirds of that Houſe, it ſhall become a law. But in all ſuch caſes the votes of both Houſes

ſhall

ſhall be determined by yeas and nays, and the names of the perſons voting for and againſt the bill ſhall be entered on the journal of each Houſe reſpectively. If any bill ſhall not be returned by the Preſident within ten days (Sundays excepted) after it ſhall have been preſented to him, the ſame ſhall be a law, in like manner as if he had ſigned it, unleſs the Congreſs by their adjournment prevent its return, in which caſe it ſhall not be a law.

Orders, Reſolutions, or Votes.

Every order, reſolution or vote to which the concurrence of the Senate and Houſe of Repreſentatives may be neceſſary (except on a queſtion of adjournment) ſhall be preſented to the Preſident of the United States; and before the ſame ſhall take effect, ſhall be approved by him, or being diſapproved by him, ſhall be re-paſſed by two-thirds of the Senate and Houſe of Repreſentatives, according to the rules and limitations preſcribed in the caſe of a bill.

General powers of Congreſs.

SECT. 8. The Congreſs ſhall have power—

To lay and collect taxes, duties, impoſts and exciſes, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, impoſts and exciſes ſhall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the ſeveral ſtates, and with the Indian tribes:

To eſtabliſh an uniform rule of naturalization, and uniform laws on the ſubject of bankruptcies throughout the United States:

To coin money, regulate the value thereof, and of foreign coin, and fix the ſtandard of weights and meaſures:

To provide for the puniſhment of counterfeiting the ſecurities and current coin of the United States:

To eſtabliſh poſt-offices and poſt-roads:

To promote the progreſs of ſcience and uſeful arts, by ſecuring for limited times to authors and inventors the excluſive right to their reſpective writings and diſcoveries:

To conſtitute tribunals inferior to the Supreme Court:

To define and puniſh piracies and felonies committed on the high ſeas, and offences againſt the law of nations:

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

To raiſe and ſupport armies, but no appropriation of money to that uſe ſhall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the union, ſuppreſs inſurrections, and repel invaſions:

To provide for organizing, arming, and diſciplining the militia, and for governing ſuch part of them as may be employed in the ſervice of the United States, reſerving to the ſtates reſpectively, the appointment of the officers, and the authority of training the militia according to the diſcipline preſcribed by Congreſs:

Excluſive Juriſdiction of Congreſs.

To exerciſe excluſive legiſlation in all caſes whatſoever, over ſuch diſtrict (not exceeding ten miles ſquare) as may by ceſſion of particular ſtates, and the acceptance of Congreſs, become the ſeat of the government of the United States, and to exerciſe like authority over all places purchaſed by the conſent of the Legiſlature of the ſtate in which the ſame ſhall be, for the erection of forts, magazines, arſenals, dock-yards, and other needful buildings: And

To make all laws which ſhall be neceſſary and proper for carrying into execution the foregoing powers, and all other powers veſted by this conſtitution in the government of the United States, or in any department or officer thereof.

Reſtrictions on the powers of Congreſs.

SECT. 9. The migration or importation of ſuch perſons as any of the ſtates now exiſting ſhall think proper to admit, ſhall not be prohibited by the Congreſs prior to the year one thouſand eight hundred and eight, but a tax or duty may be impoſed on ſuch importation, not exceeding Ten Dollars for each perſon.

The privilege of the writ of *habeas corpus* ſhall not be

be ſuſpended, unleſs when in caſes of rebellion or invaſion the public ſafety may require it.

No bill of attainder or *ex poſt facto* law ſhall be paſſed.

No capitation, or other direct tax ſhall be laid, unleſs in proportion to the *cenſus* or enumeration herein before directed to be taken.

No tax or duty ſhall be laid on articles exported from any ſtate. No preference ſhall be given by any regulation of commerce or revenue to the ports of one ſtate over thoſe of another; nor ſhall veſſels bound to, or from, one ſtate, be obliged to enter, clear, or pay duties in another.

No money ſhall be drawn from the treaſury, but in conſequence of appropriations made by law; and a regular ſtatement and account of the receipts and expenditures of all public money ſhall be publiſhed from time to time.

No title of nobility ſhall be granted by the United States: And no perſon holding any office of profit or truſt under them, ſhall, without the conſent of the Congreſs, accept of any preſent, emolument, office, or title of any kind whatever, from any king, prince, or foreign ſtate.

Restrictions on the powers of the ſeveral States.

SECT. 10. No ſtate ſhall enter into any treaty, alliance, or confederation; grant letters of marque and repriſal; coin money; emit bills of credit; make any thing but gold and ſilver coin a tender in payment of debts; paſs any bill of attainder, *ex poſt facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No ſtate ſhall, without the conſent of the Congreſs, lay any impoſts or duties on imports or exports, except what may be abſolutely neceſſary for executing its inſpection laws; and the net produce of all duties and impoſts, laid by any ſtate on imports or exports, ſhall be for the uſe of the treaſury of the United States; and all ſuch laws ſhall be ſubject to the reviſion and controul of the Congreſs. No ſtate ſhall, without the conſent of Congreſs, lay any duty of tonnage, keep troops, or ſhips of war in time of peace, enter into any agreement or compact with another ſtate, or with a foreign power, or engage in war, unleſs

leſs actually invaded, or in ſuch imminent danger as will not admit of delay.

ARTICLE II.

Of the Executive power

SECT. 1. The Executive power ſhall be veſted in a Preſident of the United States of America. He ſhall hold his office during the term of four years, and together with the Vice-Preſident, choſen for the ſame term, be elected as follows:

of the mode of Election,

Each ſtate ſhall appoint, in ſuch manner as the Legiſlature thereof may direct, a number of electors, equal to the whole number of Senators and Repreſentatives to which the ſtate may be entitled in the Congreſs: but no Senator or Repreſentative, or perſon holding an office of truſt or profit under the United States, ſhall be appointed an elector.

and proceedings therein.

The electors ſhall meet in their reſpective ſtates, and vote by ballot for two perſons, of whom one at leaſt ſhall not be an inhabitant of the ſame ſtate with themſelves. And they ſhall make a liſt of all the perſons voted for, and of the number of votes for each; which liſt they ſhall ſign and certify, and tranſmit, ſealed, to the ſeat of the government of the United States, directed to the Preſident of the Senate. The Preſident of the Senate ſhall, in the preſence of the Senate and Houſe of Repreſentatives, open all the certificates, and the votes ſhall then be counted. The perſon having the greateſt number of votes ſhall be the Preſident, if ſuch number be a majority of the whole number of electors appointed; and if there be more than one who have ſuch majority, and have an equal number of votes, then the Houſe of Repreſentatives ſhall immediately chuſe by ballot one of them for Preſident; and if no perſon have a majority, then from the five higheſt on the liſt the ſaid Houſe ſhall in like manner chuſe the Preſident. But in chuſing the Preſident, the votes ſhall be taken by ſtates, the repreſentation from each ſtate having one vote; a quorum for this purpoſe ſhall conſiſt of a member or members from two-thirds of the ſtates, and a majority of all the ſtates ſhall be neceſſary to a choice. In every caſe, after the choice of the Preſident, the perſon having

having the greateſt number of votes of the electors ſhall be the Vice-Preſident. But if there ſhould remain two or more who have equal votes, the Senate ſhall chuſe from them by ballot the Vice-Preſident.

The Congreſs may determine the time of chuſing the electors, and the day on which they ſhall give their votes; which day ſhall be the ſame throughout the United States.

Qualifications of the Preſident

No perſon except a natural born citizen, or a citizen of the United States, at the time of the adoption of this conſtitution, ſhall be eligible to the office of Preſident; neither ſhall any perſon be eligible to that office who ſhall not have attained to the age of thirty-five years, and been fourteen years a reſident within the United States.

Proviſion in caſe of his death, &c.

In caſe of the removal of the Preſident from office, or of his death, reſignation, or inability to diſcharge the powers and duties of the ſaid office, the ſame ſhall devolve on the Vice-Preſident, and the Congreſs may by law provide for the caſe of removal, death, reſignation, or inability, both of the Preſident, and Vice-Preſident, declaring what officer ſhall then act as Preſident, and ſuch officer ſhall act accordingly, until the diſability be removed, or a Preſident ſhall be elected.

Preſident's compenſation.

The Preſident ſhall, at ſtated times, receive for his ſervices, a compenſation, which ſhall neither be increaſed nor diminiſhed during the period for which he ſhall have been elected, and he ſhall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he ſhall take the following oath or affirmation:

His oath.

"I do ſolemnly ſwear (or affirm) that I will faithfully execute the office of Preſident of the United States, and will, to the beſt of my ability, preſerve, protect and defend the conſtitution of the United States."

General powers of the Preſident.

SECT. 2. The Preſident ſhall be Commander in Chief of the army and navy of the United States, and of the militia of the ſeveral ſtates, when called into the actual ſervice of the United States; he may require the opinion, in writing, of the principal officer in

each of the executive departments, upon any ſubject relating to the duties of their reſpective offices, and he ſhall have power to grant reprieves and pardons for offences againſt the United States, except in caſes of impeachment.

He ſhall have power, by and with the advice and conſent of the Senate, to make treaties, provided two-thirds of the Senators preſent concur; and he ſhall nominate, and by and with the advice and conſent of the Senate, ſhall appoint ambaſſadors, other public miniſters and conſuls, judges of the Supreme Court, and all other officers of the United States, whoſe appointments are not herein otherwiſe provided for, and which ſhall be eſtabliſhed by law. But the Congreſs may by law veſt the appointment of ſuch inferior officers, as they think proper, in the Preſident alone, in the courts of law, or in the heads of departments.

The Preſident ſhall have power to fill up all vacancies that may happen during the receſs of the Senate, by granting commiſſions which ſhall expire at the end of their next ſeſſion.

Further powers and duties

SECT. 3. He ſhall from time to time give to the Congreſs information of the ſtate of the union, and recommend to their conſideration ſuch meaſures as he ſhall judge neceſſary and expedient; he may on extraordinary occaſions, convene both Houſes, or either of them, and in caſe of diſagreement between them, with reſpect to the time of adjournment, he may adjourn them to ſuch time as he ſhall think proper; he ſhall receive ambaſſadors, and other public miniſters; he ſhall take care that the laws be faithfully executed, and ſhall commiſſion all the officers of the United States.

Of Impeachment.

SECT. 4. The Preſident, Vice-Preſident, and all civil officers of the United States, ſhall be removed from office on impeachment for, and conviction of, treaſon, bribery, or other high crimes or miſdemeanors.

ARTICLE III.

Of the judicial power.

SECT. 1. The judicial power of the United States, ſhall be veſted in one Supreme Court, and in ſuch inferior

ferior courts as the Congreſs may from time to time ordain and eſtabliſh. The judges, both of the Supreme and Inferior Court, ſhall hold their offices during good behaviour, and ſhall, at ſtated times, receive for their ſervices, a compenſation, which ſhall not be diminiſhed during their continuance in office.

Its extent.

SECT. 2. The judicial power ſhall extend to all caſes, in law and equity, ariſing under this conſtitution, the laws of the United States, and treaties made, or which ſhall be made, under their authority; to all caſes affecting ambaſſadors, other public miniſters, and conſuls; to all caſes of admiralty and maratime juriſdiction; to controverſies to which the United States ſhall be party; to controverſies between two or more ſtates, between a ſtate and citizens of another ſtate, between citizens of different ſtates, between citizens of the ſame ſtate claiming lands under grants of different ſtates, and between a ſtate, or the citizens thereof, and foreign ſtates, citizens or ſubjects.

Of original and appellate juriſdiction.

In all caſes affecting ambaſſadors, other public miniſters and conſuls, and thoſe in which a ſtate ſhall be party, the Supreme Court ſhall have original juriſdiction. In all the other caſes before mentioned, the Supreme Court ſhall have appellate juriſdiction, both as to law and fact, with ſuch exceptions, and under ſuch regulations as the Congreſs ſhall make.

Of trial by jury.

The trial of all crimes, except in caſes of impeachment, ſhall be by jury; and ſuch trial ſhall be held in the ſtate where the ſaid crimes ſhall have been committed; but when not committed within any ſtate, the trial ſhall be at ſuch place or places as the Congreſs may by law have directed.

Of treaſon.

SECT. 3. Treaſon againſt the United States, ſhall conſiſt only in levying war againſt them, or in adhering to their enemies, giving them aid and comfort. No perſon ſhall be convicted of treaſon, unleſs on the teſtimony of two witneſſes to the ſame overt act, or on confeſſion in open court.

The Congreſs ſhall have power to declare the puniſhment of treaſon, but no attainder of treaſon ſhall work corruption of blood, or forfeiture, except during the life of the perſon attainted.

ARTICLE

ARTICLE IV.

Of records, &c. SECT. 1. Full faith and credit ſhall be given in each ſtate to the public acts, records and judicial proceedings of every other ſtate. And the Congreſs may by general laws preſcribe the manner in which ſuch acts, records and proceedings ſhall be proved, and the effect thereof.

Of citizenſhip. SECT. 2. The citizens of each ſtate ſhall be entitled to all privileges and immunities of citizens in the ſeveral ſtates.

Of fugitive criminals, A perſon charged in any ſtate with treaſon, felony, or other crime, who ſhall flee from juſtice, and be found in another ſtate, ſhall, on demand of the executive authority of the ſtate from which he fled, be delivered up, to be removed to the ſtate having juriſdiction of the crime.

and perſons held to ſervice. No perſon held to ſervice or labour in one ſtate, under the laws thereof, eſcaping into another, ſhall, in conſequence of any law or regulation therein, be diſcharged from ſuch ſervice or labour, but ſhall be delivered up on claim of the party to whom ſuch ſervice or labour may be due.

Of new ſtates. SECT. 3. New ſtates may be admitted by the Congreſs into this union; but no new ſtate ſhall be formed or erected within the juriſdiction of any other ſtate; nor any ſtate be formed by the junction of two or more ſtates, or parts of ſtates, without the conſent of the Legiſlatures of the ſtates concerned, as well as of the Congreſs.

Of the territory of the United States. The Congreſs ſhall have power to diſpoſe of and make all needful rules and regulations reſpecting the territory or other property belonging to the United States; and nothing in this conſtitution ſhall be ſo conſtrued as to prejudice any claims of the United States, or of any particular ſtate.

Form of Republican government guarantied. SECT. 4. The United States ſhall guarantee to every ſtate in this union a republican form of government, and ſhall protect each of them againſt invaſion; and on application of the Legiſlature, or of the executive (when the Legiſlature cannot be convened) againſt domeſtic violence.

ARTICLE

ARTICLE V.

The Congreſs, whenever two-thirds of both Houſes ſhall deem it neceſſary, ſhall propoſe amendments to this conſtitution, or, on the application of the Legiſlatures of two-thirds of the ſeveral ſtates, ſhall call a Convention for propoſing amendments, which, in either caſe, ſhall be valid to all intents and purpoſes, as part of this conſtitution, when ratified by the Legiſlatures of three-fourths of the ſeveral ſtates, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be propoſed by the Congreſs: *Provided*, That no amendment which may be made prior to the year one thouſand eight hundred and eight, ſhall in any manner affect the firſt and fourth clauſes in the ninth ſection of the firſt article; and that no ſtate, without its conſent, ſhall be deprived of its equal ſuffrage in the Senate.

Of amendments to the conſtitution.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this conſtitution, ſhall be as valid againſt the United States, under this conſtitution, as under the confederation.

Of former debts.

This conſtitution, and the laws of the United States which ſhall be made in purſuance thereof, and all treaties made, or which ſhall be made, under the authority of the United States, ſhall be the ſupreme law of the land; and the judges in every ſtate ſhall be bound thereby, any thing in the conſtitution or laws of any ſtate to the contrary notwithſtanding.

Force of the conſtitution, laws and treaties.

The Senators and Repreſentatives before mentioned, and the members of the ſeveral State Legiſlatures, and all executive and judicial officers, both of the United States, and of the ſeveral ſtates, ſhall be bound by oath or affirmation, to ſupport this conſtitution; but no religious teſt ſhall ever be required as a qualification to any office or public truſt under the United States.

Of a political teſt.

Of a religious teſt.

ARTICLE

ARTICLE VII.

Of the ratification of the constitution.

The ratification of the Conventions of nine ſtates, ſhall be ſufficient for the eſtabliſhment of this conſtitution between the ſtates ſo ratifying the ſame.

DONE in Convention, by the unanimous conſent of the ſtates preſent, the ſeventeenth day of September, in the year of our Lord One Thouſand Seven Hundred and Eighty-ſeven, and of the Independence of the United States of America the Twelfth. In witneſs whereof we have hereunto ſubſcribed our Names.

GEORGE WASHINGTON, *Preſident*,
And Deputy from VIRGINIA.

NEW-HAMPSHIRE,	John Langdon, Nicholas Gilman.
MASSACHUSETTS,	Nathaniel Gorham, Rufus King.
CONNECTICUT,	William Samuel Johnſon, Roger Sherman.
NEW-YORK,	Alexander Hamilton.
NEW-JERSEY,	William Livingſton, David Brearly, William Patterſon, Jonathan Dayton.
PENNSYLVANIA,	Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzſimons, Jared Ingerſoll, James Wilſon, Gouverneur Morris.
DELAWARE,	George Read, Gunning Bedford, junior, John Dickinſon, Richard Baſſett, Jacob Broom.
MARYLAND,	James M'Henry, Daniel of St. Thomas Jenifer, Daniel Carrol.

VIRGINIA,	John Blair, James Madiſon, junior.
NORTH-CAROLINA,	William Blount, Richard Dobbs Spaight, Hugh Williamſon.
SOUTH-CAROLINA,	John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler.
GEORGIA.	William Few, Abraham Baldwin.

Atteſt. WILLIAM JACKSON, *Secretary.*

In Convention,

Monday, *September* 17*th*, 1787.

PRESENT,

The States of NEW-HAMPSHIRE, MASSACHUSETTS, CONNECTICUT, Mr. *Hamilton* from NEW-YORK, NEW-JERSEY, PENNSYLVANIA, DELAWARE, MARYLAND, VIRGINIA, NORTH-CAROLINA, SOUTH-CAROLINA and GEORGIA:

RESOLVED,

THAT the preceding conſtitution be laid before the United States in Congreſs aſſembled, and that it is the opinion of this Convention, that it ſhould afterwards be ſubmitted to a Convention of Delegates, choſen in each ſtate by the people thereof, under the recommendation of its Legiſlature, for their aſſent and ratification; and that each Convention aſſenting to, and ratifying the ſame, ſhould give notice thereof to the United States in Congreſs aſſembled.

RESOLVED, That it is the opinion of this Convention, that as ſoon as the Conventions of nine ſtates ſhall have ratified this conſtitution, the United States in Congreſs aſſembled ſhould fix a day on which electors ſhould be appointed by the ſtates which ſhall have ratified

LAWS

OF THE

STATE

OF

DELAWARE,

FROM THE FOURTEENTH DAY OF OCTOBER, ONE THOUSAND SEVEN HUNDRED, TO THE EIGHTEENTH DAY OF AUGUST, ONE THOUSAND SEVEN HUNDRED AND NINETY-SEVEN,

IN TWO VOLUMES.

VOLUME I.

Published by Authority.

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SECRETARY'S OFFICE, NEW-CASTLE, AUGUST 18, 1797.

I Do certify, that this Edition of the LAWS OF THE STATE OF DELAWARE, *compriſed in Two Volumes, printed by Samuel and John Adams, is publiſhed purſuant to the Directions of an Act of the Legiſlature of the ſaid State, paſſed on the nineteenth Day of June, in the Year One Thouſand Seven Hundred and Ninety-three.*

JAMES BOOTH,

Secretary of the State of Delaware.

The following ADDENDA et ERRATA, *in Vol. I. with ſome leſſer Errors not noted therein, accumulated much from the Editor of the Notes, in this Impreſſion of the Laws, not having had a View of the Proof-Sheets ſent from the Preſs; and from his having completed and ſent for the Preſs the Notes to the Laws preceding the Year* 1796, *before thoſe of* 1797 *were enacted.*

Page	Line	
51		To 590, inclusive, add the letter "a." to the numerals of each chap. at the head of every page in the margin of Vol. I.
Idem	10	After "hundred" insert *(a)* and at the bottom of the page, by way of note, add "*(a)* The General Assembly aforesaid was composed of Representatives of the people of Pennsylvania, and of the counties of New-Castle, Kent, and Sussex, on Delaware, then stiled Territories in their acts of Legislation. See the act of union in the Appendix, page 8, and the note in pages 44 to 49."
52	4	*Dele* "13," and insert "12, page 225."
54	17	After chap. 15. a. add, "and in the Appendix, pages 26, 50, for both those acts."
—	22	After "See Appendix," add, "pages 29, 52."
—	26	After "in the Appendix," add, "page 30."
—	28	After "Appendix," add, "page 36."
55	5	After "See Appendix," add, "page 31."
—	8	After "Repealed," add, "See this act in the Appendix, page 50."
56	last	Insert "a" after "in chap. 54."
59	6	After "See Appendix," add, "page 50."
60	6	After "See Appendix," add, "for this chap. 18. a. page 52."
61	1	Of note *(b) dele* "12," and insert "11."
—	2	Of same, add the figure "7," to the figures "13."
—	6	Of same, after "chap. 189," add, "a."
62		Line 1 of the note, after "chap. 178." add, "b."
63		In margin, under "Preamble," insert, "See Appendix, page 57, for this charter."
67	last	*Dele* "a." and insert "b."
71	last	After "chap. 6." add, "b."
72	last but one.	After "chap. 58." add, "a."
78	6	After "Appendix," add, "pages 53, 72."
87		In margin, oppoſite to line 1 of note (a) insert, "See Appendix, page 85, for this."
90	last	Add, "and chaps. 146. b. and 76. c. directing that executors in all cases give security upon the granting of letters testamentary, and that testamentary guardians shall also give bond, &c."
93	last	*Dele* "page 194."
94	last	Add "page 55."
97		In margin, under "Penalty," insert, "See note *(c)* in next page."
98		In margin, insert, "Repealed and supplied in chap. 134. c."
—	last	*Dele* sect. "13," and insert "b. sect. 5."
104	21	After "head," insert "*(b)*" and at the bottom of the page, by way of note, add, "*(b)* In chap. 124. c. sect. 8, this part of the punishment changed to cutting off the soft part of the ear."
120	last	Add, "See also chap. 67. a. sect. 3."
131	last save one,	after "chap. 3." add, "c."
137		In note "*(b)*" after "chap. 27. c." add, "sect. 1."
145	last save one of the note,	*dele* "68," and insert, "67."
146		Add to the note *(a)* "chap. 228. a."
148	last	Add, "—and see note at *(b)* and its *addenda*."

Page

Page	Line	
150	last	Add, "with this, that every such freeman must be a citizen, resident in the county in which he is to have a vote, as in art. 2, sects. 2, 3—art. 3, sect. 2—art. 8, sect. 4—and art. 10."
—	—	Add to the manuscript addition, "See Laws of the United States, vol. 3, chap. 85, page 172, &c. how aliens, and persons born out of the limits and jurisdiction of the United States, may become citizens, or acquire citizenship."
151		In first line of note *(i)* after "chap. 207." add, "a."
171	32	After "imported," insert "*(c)*" and at the bottom of the page, by way of note, add, "*(c)* See after in chap. 114. a. all persons having paid their passage, and free from any indenture of apprenticeship or servitude, were exempted from this charge—But see it revived again, as to Six Cents, in chap. 134. c. sect. 7, and made payable to the visiting Physician and Health Officer under that act, for the use of the poor of the county."
174		In margin of sect. 3, insert, "See also chap. 52. a."
193	last	To note "*(b)*" add, "which in chap. 133. c. is again altered, and the appropriation in chap. 28. c. affirmed."
211		Last line of note *(e)* add, "See also chap. 225. a. sect. 8, and chap. 218. b. sect. 18, That all orphan children, and those of poor persons not of ability to maintain them, may be bound out apprentices to trades or otherwise, by any two Trustees of the Poor (with the approbation as in this sect. 3,) or by any two Justices of the Peace in their discretion, until eighteen and twenty-one."
214		Add, to the note *(d)* "and in chap. 124. c. from sects. 1, to 6, inclusive, further supplied."
220	last	*Dele* "68," and insert, "67."
234		In line 5, of note *(a)* after "March 24," add, "1774."
238		At bottom of the page, as a note to sect. 9, add, "See in chap. 22. a. sect. 13."
239	last save one,	to "chap. 230." add, "a."
242	37	After "year," insert, "*(d)*" and at the bottom of the page, by way of note, add, "*(d)* See chap. 108. c. sect. 3, making it a part of the duty of a Grand Juryman who may have knowledge of any free unmarried woman having an illegitimate child, to make information thereof to the next, or some Justice of the Peace for his county."
248	last	After "cents," insert, "with a."
257	22	After "Appendix," add, "page 62."
259		Line 2, of note *(b)* after "98. c." insert "sect. 29."
260	26	Add "*(o)*" and at the bottom of the page, by way of note, add, "*(o)* See chap. 125. c. sect. 1, passed Jan. 19, 1797, the annual meeting of this court to be on the first Tuesday in February, and their duties more particularly pointed out in consequence of laws passed since this chap. 102. a.—and see chap. 136. c. page 1358."
262		In first line of note *(g)* *dele* "98," and insert "28," and after, in same line, *dele* "28," and insert "98,"—and at the end add, "but see chap. 119. c. passed November 11, 1796, the time for holding the then next Court of Appeal fixed for the first Tuesday in February—afterwards, in chap. 125. c. sect. 4, extended to the last Tuesday in March if necessary, though after that period, by sect. 2, of said chap. 125. c. the said Courts of Appeal are to be held annually on the first Tuesday in March, except as after specially provided in chap. 136. c. page 1360."
275	last	Add, to the note, "—and since in chap. 76. c. of January, 1795, to the remaining part of St. George's hundred along the Stone Line."
278		At the end of sect. 2, add, "*(c)*" and at the bottom of the page, by way of note, add, "*(c)* See chap. 66. a. sect. 7, page 171, and the note to be added there."
296		At the end of sect. 14, add, "*(p)*" and at the bottom of the page, by way of note, add, "*(p)* For such see the Appendix."
309	last save one,	*dele* "and," and insert "out."
317		To last line of note *(a)* add, "See also chap. 126. c. a supplement to said chap. 99. c. for divers alterations therein; and the respective notes to chap. 126. c."

Page

Page	Line	
318		Second line of note *(d)* add the figure "9."
320	35	After "lands," inſert, "*(v)*" and at the bottom of the page, by way of note, add, "*(v)* See ſect. 27, of chap. 99. c. this extended to wood-land in the county of Kent."
321		Laſt of the note there, read "ſects. 3, 6, 10, 27."
326		At bottom of page add, "See chap. 116. b. page 812, &c. "An act for the regulation of certain water griſt mills in New-Caſtle county," and its ſupplement, page 967."
330		At the bottom of the page add, "but ſee after chap. 127. c. paſſed Jan. 21, 1797."
381	34	After "freedom," inſert "*(b)*" and at the bottom of the page, by way of note, add, "*(b)* See chap. 124. c. paſſed Jan. 18, 1797, that verbal contracts thereafter for manumiſſion not to be binding, but all manumiſſions to be in writing, under hand and ſeal of the maſter or miſtreſs, atteſted in his or her preſence by one or more witneſſes, &c. and in ſect. 7, an appeal is given."
385	6	After "Appendix," add, "page 72."
390		At the end of note *(a)* add, "and alſo chap. 126. c. paſſed January 20, 1797, a ſupplement to ſaid chap. 99. c."
393	7	After "paſs," inſert "*(o)*" and at the bottom of the page, by way of note, add, "*(o)* See chaps. 99. c. and 100. c. ſects. 7, reſtraining this power of the Court of Quarter Seſſions as to altering certain roads ſpecified in the ſaid acts—and ſee ſect. 10, of the ſaid reſpective chaps. how private roads ſhall be laid out and ſupported."
422	6	After "guardian," add, ", *(e)*" and at the bottom of the page, by way of note, add, "*(e)* Teſtamentary guardians to give like ſecurity, by an act paſſed Feb. 2, 1793, chap. 7. c. ſect 4."
436	laſt	At the end of note *(a)* add, "and after in chap. 124. c. paſſed Jan. 18, 1797, further ſupplied."
441	laſt	At the end of note *(a)* add, "and in chap. 76. c. to the weſtern parts of St. George's hundred, along the Stone Line."
479	laſt	At the end of note *(d)* add, "See alſo chap 108. c. making it a part of the duty of a Conſtable, who may have knowledge of any free unmarried woman having an illegitimate child to make information thereof to the next, or ſome Juſtice of the Peace for his county."
483		In margin of ſect. 3, inſert, "See chap. 232. b—and chap. 94. c."
525		In line 1, of note *(b)* after "including," inſert, "on."
537	laſt ſave one,	after "Appendix," add, "pages 53, 72."
546	laſt	*Dele* "248," and inſert "218."
582	laſt	At the end of note *(g)* add, "—and chap. 229. b. ſect. 6, paſſed Jan. 29, 1791, That Truſtees of the Loan Offices return to him annually an accurate ſtate of the ſame."
584	laſt	At the end of note (*b*) add, "—and alſo chap. 120. c. paſſed January 13, 1797."

In the Appendix, page 72, to the liſt of ſignatures, under the head of "Delaware," after "George Read," add, "Thomas M'Kean," who, though not preſent at a firſt general ſignature, being then with the flying camp in New-Jerſey, had voted for the meaſure, and ſigned the original on his return from thence, and ſo it happened that in the firſt printed copies the name was omitted, and ſuch was the one tranſmitted by Congreſs to this ſtate.

THE CONSTITUTION OF THE United States of America.

WE the People of the United States, in order to form a more perfect Union, eſtabliſh Juſtice, enſure domeſtic Tranquility, provide for the common Defence, promote the general Welfare, and ſecure the Bleſſings of Liberty to our ſelves and our Poſterity, DO ORDAIN AND ESTABLISH *this CONSTITUTION for the* UNITED STATES *of* AMERICA.

ARTICLE I.

SECTION 1. ALL Legiſlative powers herein granted ſhall be veſted in a Congreſs of the United States, which ſhall conſiſt of a Senate and Houſe of Repreſentatives. Legiſlative power.

SECT. 2. The Houſe of Repreſentatives ſhall be compoſed of members choſen every ſecond year by the people of the ſeveral ſtates, and the electors in each ſtate ſhall have the qualifications requiſite for electors of the moſt numerous branch of the State Legiſlature. Of the Houſe of Repreſentatives.

No perſon ſhall be a Repreſentative who ſhall not have attained to the age of twenty-five years, and been ſeven years a citizen of the United States, and who ſhall not, when elected, be an inhabitant of that ſtate in which he ſhall be choſen. Qualification of the members.

Repreſentatives and direct taxes ſhall be apportioned among the ſeveral ſtates which may be includ- Repreſentation and direct taxes, how apportioned.

ed within this union, according to their reſpective numbers, which ſhall be determined by adding to the whole number of free perſons, including thoſe bound to ſervice for a term of years, and excluding Indians not taxed, three-fifths of all other perſons. The actual enumeration ſhall be made within three years after the firſt meeting of the Congreſs of the United States, and within every ſubſequent term of ten years, in ſuch manner as they ſhall by law direct. The number of Repreſentatives ſhall not exceed one for every thirty thouſand, but each ſtate ſhall have at leaſt one Repreſentative; and until ſuch enumeration ſhall be made, the ſtate of New-Hampſhire ſhall be entitled to chuſe three; Maſſachuſetts eight; Rhode-Iſland and Providence Plantations one; Connecticut five; New-York ſix; New-Jerſey four; Pennſylvania eight; Delaware one; Maryland ſix; Virginia ten; North-Carolina five; South-Carolina five; and Georgia three.

Future ratio of Repreſentation.

Preſent ratio.

When vacancies happen in the repreſentation from any ſtate, the executive authority thereof ſhall iſſue writs of election to fill ſuch vacancies.

Of vacancies.

The Houſe of Repreſentatives ſhall chuſe their Speaker and other officers; and ſhall have the ſole power of impeachment.

Of officers, and power of impeachment.

SECT. 3. The Senate of the United States ſhall be compoſed of two Senators from each ſtate, choſen by the Legiſlature thereof, for ſix years; and each Senator ſhall have one vote.

Of the Senate.

Immediately after they ſhall be aſſembled in conſequence of the firſt election, they ſhall be divided as equally as may be into three claſſes. The ſeats of the Senators of the firſt claſs ſhall be vacated at the expiration of the ſecond year, of the ſecond claſs at the expiration of the fourth year, and of the third claſs at the expiration of the ſixth year, ſo that one third may be choſen every ſecond year; and if vacancies happen by reſignation, or otherwiſe, during the receſs of the Legiſlature of any ſtate, the executive thereof may make temporary appointments until the next meeting of the Legiſlature, which ſhall then fill ſuch vacancies.

Of claſſing the Senators.

No perſon ſhall be a Senator who ſhall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who ſhall not when

Qualification of Senators.

elected

elected, be an inhabitant of that ſtate for which he ſhall be choſen.

The Vice-Preſident of the United States ſhall be Preſident of the Senate, but ſhall have no vote, unleſs they be equally divided. Of the Vice-Preſident.

The Senate ſhall chuſe their other officers, and alſo a Preſident *pro tempore* in the abſence of the Vice-Preſident, or when he ſhall exerciſe the office of Preſident of the United States. Of the officers of the Senate.

The Senate ſhall have the ſole power to try all impeachments. When ſitting for that purpoſe, they ſhall be on oath or affirmation. When the Preſident of the United States is tried, the Chief Juſtice ſhall preſide; and no perſon ſhall be convicted, without the concurrence of two-thirds of the members preſent. Of the power to try impeachments.

Judgment in caſes of impeachment ſhall not extend further than to removal from office, and diſqualification to hold and enjoy any office of honour, truſt or profit under the United States; but the party convicted ſhall nevertheleſs be liable and ſubject to indictment, trial, judgment and puniſhment, according to law.

Sect. 4. The times, places and manner of holding elections for Senators and Repreſentatives, ſhall be preſcribed in each ſtate by the Legiſlature thereof: but the Congreſs may at any time by law make or alter ſuch regulations, except as to the places of chuſing Senators. Of elections.

The Congreſs ſhall aſſemble at leaſt once in every year, and ſuch meeting ſhall be on the firſt Monday in December, unleſs they ſhall by law appoint a different day. Of the meeting of Congreſs.

Sect. 5. Each Houſe ſhall be the judge of the elections, returns and qualifications of its own members, and a majority of each ſhall conſtitute a quorum to do buſineſs; but a ſmaller number may adjourn from day to day, and may be authoriſed to compel the attendance of abſent members, in ſuch manner, and under ſuch penalties, as each Houſe may provide. Of the powers of the Houſes reſpectively.

Each Houſe may determine the rules of its proceedings, puniſh its members for diſorderly behaviour, and with the concurrence of two-thirds, expel a member.

Each

Of the publication of the journals.

Each Houſe ſhall keep a journal of its proceedings, and from time to time publiſh the ſame, excepting ſuch parts as may in their judgment require ſecrecy; and the yeas and nays of the members of either Houſe on any queſtion, ſhall, at the deſire of one-fifth of thoſe preſent, be entered on the journal.

Of adjournment.

Neither Houſe, during the ſeſſion of Congreſs, ſhall, without the conſent of the other, adjourn for more than three days, nor to any other place than that in which the two Houſes ſhall be ſitting.

Compenſations and privileges.

SECT. 6. The Senators and Repreſentatives ſhall receive a compenſation for their ſervices, to be aſcertained by law, and paid out of the treaſury of the United States. They ſhall in all caſes, except treaſon, felony and breach of the peace, be privileged from arreſt during their attendance at the ſeſſion of their reſpective Houſes, and in going to and returning from the ſame; and for any ſpeech or debate in either Houſe, they ſhall not be queſtioned in any other place.

Excluſion from certain offices, and diſqualification by office.

No Senator or Repreſentative ſhall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which ſhall have been created, or the emoluments whereof ſhall have been increaſed during ſuch time; and no perſon holding any office under the United States, ſhall be a member of either Houſe during his continuance in office.

Of revenue bills.

SECT. 7. All bills for raiſing revenue ſhall originate in the Houſe of Repreſentatives; but the Senate may propoſe or concur with amendments as on other bills.

Forms of proceeding in paſſing bills.

Every bill which ſhall have paſſed the Houſe of Repreſentatives and the Senate, ſhall, before it become a law, be preſented to the Preſident of the United States; if he approve he ſhall ſign it, but if not he ſhall return it, with his objections, to that Houſe in which it ſhall have originated, who ſhall enter the objections at large on their journal, and proceed to reconſider it. If after ſuch reconſideration, two-thirds of that Houſe ſhall agree to paſs the bill, it ſhall be ſent, together with the objections, to the other Houſe, by which it ſhall likewiſe be reconſidered, and if approved by two-thirds of that Houſe, it ſhall become a law. But in all ſuch caſes the votes of both Houſes

ſhall

ſhall be determined by yeas and nays, and the names of the perſons voting for and againſt the bill ſhall be entered on the journal of each Houſe reſpectively. If any bill ſhall not be returned by the Preſident within ten days (Sundays excepted) after it ſhall have been preſented to him, the ſame ſhall be a law, in like manner as if he had ſigned it, unleſs the Congreſs by their adjournment prevent its return, in which caſe it ſhall not be a law.

Orders, Reſolutions, or Votes.

Every order, reſolution or vote to which the concurrence of the Senate and Houſe of Repreſentatives may be neceſſary (except on a queſtion of adjournment) ſhall be preſented to the Preſident of the United States; and before the ſame ſhall take effect, ſhall be approved by him, or being diſapproved by him, ſhall be re-paſſed by two-thirds of the Senate and Houſe of Repreſentatives, according to the rules and limitations preſcribed in the caſe of a bill.

General powers of Congreſs.

SECT. 8. The Congreſs ſhall have power—

To lay and collect taxes, duties, impoſts and exciſes, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, impoſts and exciſes ſhall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the ſeveral ſtates, and with the Indian tribes:

To eſtabliſh an uniform rule of naturalization, and uniform laws on the ſubject of bankruptcies throughout the United States:

To coin money, regulate the value thereof, and of foreign coin, and fix the ſtandard of weights and meaſures:

To provide for the puniſhment of counterfeiting the ſecurities and current coin of the United States:

To eſtabliſh poſt-offices and poſt-roads:

To promote the progreſs of ſcience and uſeful arts, by ſecuring for limited times to authors and inventors the excluſive right to their reſpective writings and diſcoveries:

To conſtitute tribunals inferior to the Supreme Court:

To define and puniſh piracies and felonies committed on the high ſeas, and offences againſt the law of nations:

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

To raiſe and ſupport armies, but no appropriation of money to that uſe ſhall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the union, ſuppreſs inſurrections, and repel invaſions:

To provide for organizing, arming, and diſciplining the militia, and for governing ſuch part of them as may be employed in the ſervice of the United States, reſerving to the ſtates reſpectively, the appointment of the officers, and the authority of training the militia according to the diſcipline preſcribed by Congreſs:

Excluſive Juriſdiction of Congreſs.

To exerciſe excluſive legiſlation in all caſes whatſoever, over ſuch diſtrict (not exceeding ten miles ſquare) as may by ceſſion of particular ſtates, and the acceptance of Congreſs, become the ſeat of the government of the United States, and to exerciſe like authority over all places purchaſed by the conſent of the Legiſlature of the ſtate in which the ſame ſhall be, for the erection of forts, magazines, arſenals, dock-yards, and other needful buildings: And

To make all laws which ſhall be neceſſary and proper for carrying into execution the foregoing powers, and all other powers veſted by this conſtitution in the government of the United States, or in any department or officer thereof.

Reſtrictions on the powers of Congreſs.

SECT. 9. The migration or importation of ſuch perſons as any of the ſtates now exiſting ſhall think proper to admit, ſhall not be prohibited by the Congreſs prior to the year one thouſand eight hundred and eight, but a tax or duty may be impoſed on ſuch importation, not exceeding Ten Dollars for each perſon.

The privilege of the writ of *habeas corpus* ſhall not be

be ſuſpended, unleſs when in caſes of rebellion or invaſion the public ſafety may require it.

No bill of attainder or *ex poſt facto* law ſhall be paſſed.

No capitation, or other direct tax ſhall be laid, unleſs in proportion to the *cenſus* or enumeration herein before directed to be taken.

No tax or duty ſhall be laid on articles exported from any ſtate. No preference ſhall be given by any regulation of commerce or revenue to the ports of one ſtate over thoſe of another; nor ſhall veſſels bound to, or from, one ſtate, be obliged to enter, clear, or pay duties in another.

No money ſhall be drawn from the treaſury, but in conſequence of appropriations made by law; and a regular ſtatement and account of the receipts and expenditures of all public money ſhall be publiſhed from time to time.

No title of nobility ſhall be granted by the United States: And no perſon holding any office of profit or truſt under them, ſhall, without the conſent of the Congreſs, accept of any preſent, emolument, office, or title of any kind whatever, from any king, prince, or foreign ſtate.

Restrictions on the powers of the ſeveral States.

SECT. 10. No ſtate ſhall enter into any treaty, alliance, or confederation; grant letters of marque and repriſal; coin money; emit bills of credit; make any thing but gold and ſilver coin a tender in payment of debts; paſs any bill of attainder, *ex poſt facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No ſtate ſhall, without the conſent of the Congreſs, lay any impoſts or duties on imports or exports, except what may be abſolutely neceſſary for executing its inſpection laws; and the net produce of all duties and impoſts, laid by any ſtate on imports or exports, ſhall be for the uſe of the treaſury of the United States; and all ſuch laws ſhall be ſubject to the reviſion and controul of the Congreſs. No ſtate ſhall, without the conſent of Congreſs, lay any duty of tonnage, keep troops, or ſhips of war in time of peace, enter into any agreement or compact with another ſtate, or with a foreign power, or engage in war, unleſs

leſs actually invaded, or in ſuch imminent danger as will not admit of delay.

ARTICLE II.

Of the Executive power

SECT. 1. The Executive power ſhall be veſted in a Preſident of the United States of America. He ſhall hold his office during the term of four years, and together with the Vice-Preſident, choſen for the ſame term, be elected as follows:

of the mode of Election,

Each ſtate ſhall appoint, in ſuch manner as the Legiſlature thereof may direct, a number of electors, equal to the whole number of Senators and Repreſentatives to which the ſtate may be entitled in the Congreſs: but no Senator or Repreſentative, or perſon holding an office of truſt or profit under the United States, ſhall be appointed an elector.

and proceedings therein.

The electors ſhall meet in their reſpective ſtates, and vote by ballot for two perſons, of whom one at leaſt ſhall not be an inhabitant of the ſame ſtate with themſelves. And they ſhall make a liſt of all the perſons voted for, and of the number of votes for each; which liſt they ſhall ſign and certify, and tranſmit, ſealed, to the ſeat of the government of the United States, directed to the Preſident of the Senate. The Preſident of the Senate ſhall, in the preſence of the Senate and Houſe of Repreſentatives, open all the certificates, and the votes ſhall then be counted. The perſon having the greateſt number of votes ſhall be the Preſident, if ſuch number be a majority of the whole number of electors appointed; and if there be more than one who have ſuch majority, and have an equal number of votes, then the Houſe of Repreſentatives ſhall immediately chuſe by ballot one of them for Preſident; and if no perſon have a majority, then from the five higheſt on the liſt the ſaid Houſe ſhall in like manner chuſe the Preſident. But in chuſing the Preſident, the votes ſhall be taken by ſtates, the repreſentation from each ſtate having one vote; a quorum for this purpoſe ſhall conſiſt of a member or members from two-thirds of the ſtates, and a majority of all the ſtates ſhall be neceſſary to a choice. In every caſe, after the choice of the Preſident, the perſon having

having the greateſt number of votes of the electors ſhall be the Vice-Preſident. But if there ſhould remain two or more who have equal votes, the Senate ſhall chuſe from them by ballot the Vice-Preſident.

The Congreſs may determine the time of chuſing the electors, and the day on which they ſhall give their votes; which day ſhall be the ſame throughout the United States.

Qualifications of the Preſident

No perſon except a natural born citizen, or a citizen of the United States, at the time of the adoption of this conſtitution, ſhall be eligible to the office of Preſident; neither ſhall any perſon be eligible to that office who ſhall not have attained to the age of thirty-five years, and been fourteen years a reſident within the United States.

Proviſion in caſe of his death, &c.

In caſe of the removal of the Preſident from office, or of his death, reſignation, or inability to diſcharge the powers and duties of the ſaid office, the ſame ſhall devolve on the Vice-Preſident, and the Congreſs may by law provide for the caſe of removal, death, reſignation, or inability, both of the Preſident, and Vice-Preſident, declaring what officer ſhall then act as Preſident, and ſuch officer ſhall act accordingly, until the diſability be removed, or a Preſident ſhall be elected.

Preſident's compenſation.

The Preſident ſhall, at ſtated times, receive for his ſervices, a compenſation, which ſhall neither be increaſed nor diminiſhed during the period for which he ſhall have been elected, and he ſhall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he ſhall take the following oath or affirmation:

His oath.

" I do ſolemnly ſwear (or affirm) that I will faithfully execute the office of Preſident of the United States, and will, to the beſt of my ability, preſerve, protect and defend the conſtitution of the United States."

General powers of the Preſident.

SECT. 2. The Preſident ſhall be Commander in Chief of the army and navy of the United States, and of the militia of the ſeveral ſtates, when called into the actual ſervice of the United States; he may require the opinion, in writing, of the principal officer in

each of the executive departments, upon any ſubject relating to the duties of their reſpective offices, and he ſhall have power to grant reprieves and pardons for offences againſt the United States, except in caſes of impeachment.

He ſhall have power, by and with the advice and conſent of the Senate, to make treaties, provided two-thirds of the Senators preſent concur; and he ſhall nominate, and by and with the advice and conſent of the Senate, ſhall appoint ambaſſadors, other public miniſters and conſuls, judges of the Supreme Court, and all other officers of the United States, whoſe appointments are not herein otherwiſe provided for, and which ſhall be eſtabliſhed by law. But the Congreſs may by law veſt the appointment of ſuch inferior officers, as they think proper, in the Preſident alone, in the courts of law, or in the heads of departments.

The Preſident ſhall have power to fill up all vacancies that may happen during the receſs of the Senate, by granting commiſſions which ſhall expire at the end of their next ſeſſion.

Further powers and duties

SECT. 3. He ſhall from time to time give to the Congreſs information of the ſtate of the union, and recommend to their conſideration ſuch meaſures as he ſhall judge neceſſary and expedient; he may on extraordinary occaſions, convene both Houſes, or either of them, and in caſe of diſagreement between them, with reſpect to the time of adjournment, he may adjourn them to ſuch time as he ſhall think proper; he ſhall receive ambaſſadors, and other public miniſters; he ſhall take care that the laws be faithfully executed, and ſhall commiſſion all the officers of the United States.

Of Impeachment.

SECT. 4. The Preſident, Vice-Preſident, and all civil officers of the United States, ſhall be removed from office on impeachment for, and conviction of, treaſon, bribery, or other high crimes or miſdemeanors.

ARTICLE III.

Of the judicial power.

SECT. 1. The judicial power of the United States, ſhall be veſted in one Supreme Court, and in ſuch inferior

ferior courts as the Congreſs may from time to time ordain and eſtabliſh. The judges, both of the Supreme and Inferior Court, ſhall hold their offices during good behaviour, and ſhall, at ſtated times, receive for their ſervices, a compenſation, which ſhall not be diminiſhed during their continuance in office.

Its extent.

SECT. 2. The judicial power ſhall extend to all caſes, in law and equity, ariſing under this conſtitution, the laws of the United States, and treaties made, or which ſhall be made, under their authority; to all caſes affecting ambaſſadors, other public miniſters, and conſuls; to all caſes of admiralty and maratime juriſdiction; to controverſies to which the United States ſhall be party; to controverſies between two or more ſtates, between a ſtate and citizens of another ſtate, between citizens of different ſtates, between citizens of the ſame ſtate claiming lands under grants of different ſtates, and between a ſtate, or the citizens thereof, and foreign ſtates, citizens or ſubjects.

Of original and appellate juriſdiction.

In all caſes affecting ambaſſadors, other public miniſters and conſuls, and thoſe in which a ſtate ſhall be party, the Supreme Court ſhall have original juriſdiction. In all the other caſes before mentioned, the Supreme Court ſhall have appellate juriſdiction, both as to law and fact, with ſuch exceptions, and under ſuch regulations as the Congreſs ſhall make.

Of trial by jury.

The trial of all crimes, except in caſes of impeachment, ſhall be by jury; and ſuch trial ſhall be held in the ſtate where the ſaid crimes ſhall have been committed; but when not committed within any ſtate, the trial ſhall be at ſuch place or places as the Congreſs may by law have directed.

Of treaſon.

SECT. 3. Treaſon againſt the United States, ſhall conſiſt only in levying war againſt them, or in adhering to their enemies, giving them aid and comfort. No perſon ſhall be convicted of treaſon, unleſs on the teſtimony of two witneſſes to the ſame overt act, or on confeſſion in open court.

The Congreſs ſhall have power to declare the puniſhment of treaſon, but no attainder of treaſon ſhall work corruption of blood, or forfeiture, except during the life of the perſon attainted.

ARTICLE

ARTICLE IV.

Of records, &c. SECT. 1. Full faith and credit ſhall be given in each ſtate to the public acts, records and judicial proceedings of every other ſtate. And the Congreſs may by general laws preſcribe the manner in which ſuch acts, records and proceedings ſhall be proved, and the effect thereof.

Of citizenſhip. SECT. 2. The citizens of each ſtate ſhall be entitled to all privileges and immunities of citizens in the ſeveral ſtates.

Of fugitive criminals, A perſon charged in any ſtate with treaſon, felony, or other crime, who ſhall flee from juſtice, and be found in another ſtate, ſhall, on demand of the executive authority of the ſtate from which he fled, be delivered up, to be removed to the ſtate having juriſdiction of the crime.

and perſons held to ſervice. No perſon held to ſervice or labour in one ſtate, under the laws thereof, eſcaping into another, ſhall, in conſequence of any law or regulation therein, be diſcharged from ſuch ſervice or labour, but ſhall be delivered up on claim of the party to whom ſuch ſervice or labour may be due.

Of new ſtates. SECT. 3. New ſtates may be admitted by the Congreſs into this union; but no new ſtate ſhall be formed or erected within the juriſdiction of any other ſtate; nor any ſtate be formed by the junction of two or more ſtates, or parts of ſtates, without the conſent of the Legiſlatures of the ſtates concerned, as well as of the Congreſs.

Of the territory of the United States. The Congreſs ſhall have power to diſpoſe of and make all needful rules and regulations reſpecting the territory or other property belonging to the United States; and nothing in this conſtitution ſhall be ſo conſtrued as to prejudice any claims of the United States, or of any particular ſtate.

Form of Republican government guarantied. SECT. 4. The United States ſhall guarantee to every ſtate in this union a republican form of government, and ſhall protect each of them againſt invaſion; and on application of the Legiſlature, or of the executive (when the Legiſlature cannot be convened) againſt domeſtic violence.

ARTICLE

ARTICLE V.

Of amendments to the conſtitution.

The Congreſs, whenever two-thirds of both Houſes ſhall deem it neceſſary, ſhall propoſe amendments to this conſtitution, or, on the application of the Legiſlatures of two-thirds of the ſeveral ſtates, ſhall call a Convention for propoſing amendments, which, in either caſe, ſhall be valid to all intents and purpoſes, as part of this conſtitution, when ratified by the Legiſlatures of three-fourths of the ſeveral ſtates, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be propoſed by the Congreſs: *Provided*, That no amendment which may be made prior to the year one thouſand eight hundred and eight, ſhall in any manner affect the firſt and fourth clauſes in the ninth ſection of the firſt article; and that no ſtate, without its conſent, ſhall be deprived of its equal ſuffrage in the Senate.

ARTICLE VI.

Of former debts.

All debts contracted, and engagements entered into, before the adoption of this conſtitution, ſhall be as valid againſt the United States, under this conſtitution, as under the confederation.

Force of the conſtitution, laws and treaties.

This conſtitution, and the laws of the United States which ſhall be made in purſuance thereof, and all treaties made, or which ſhall be made, under the authority of the United States, ſhall be the ſupreme law of the land; and the judges in every ſtate ſhall be bound thereby, any thing in the conſtitution or laws of any ſtate to the contrary notwithſtanding.

Of a political teſt.

The Senators and Repreſentatives before mentioned, and the members of the ſeveral State Legiſlatures, and all executive and judicial officers, both of the United States, and of the ſeveral ſtates, ſhall be bound by oath or affirmation, to ſupport this conſtitution; but no religious teſt ſhall ever be required as a qualification to any office or public truſt under the United States.

Of a religious teſt.

ARTICLE

ARTICLE VII.

Of the ratification of the constitution.

The ratification of the Conventions of nine ſtates, ſhall be ſufficient for the eſtabliſhment of this conſtitution between the ſtates ſo ratifying the ſame.

DONE in Convention, by the unanimous conſent of the ſtates preſent, the ſeventeenth day of September, in the year of our Lord One Thouſand Seven Hundred and Eighty-ſeven, and of the Independence of the United States of America the Twelfth. In witneſs whereof we have hereunto ſubſcribed our Names.

GEORGE WASHINGTON, *Preſident*,
And Deputy from VIRGINIA.

NEW-HAMPSHIRE,	John Langdon, Nicholas Gilman.
MASSACHUSETTS,	Nathaniel Gorham, Rufus King.
CONNECTICUT,	William Samuel Johnſon, Roger Sherman.
NEW-YORK,	Alexander Hamilton.
NEW-JERSEY,	William Livingſton, David Brearly, William Patterſon, Jonathan Dayton.
PENNSYLVANIA,	Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzſimons, Jared Ingerſoll, James Wilſon, Gouverneur Morris.
DELAWARE,	George Read, Gunning Bedford, junior, John Dickinſon, Richard Baſſett, Jacob Broom.
MARYLAND,	James M'Henry, Daniel of St. Thomas Jenifer, Daniel Carrol.

VIRGINIA,	John Blair, James Madiſon, junior.
NORTH-CAROLINA,	William Blount, Richard Dobbs Spaight, Hugh Williamſon.
SOUTH-CAROLINA,	John Rutledge, Charles Cotelworth Pinckney, Charles Pinckney, Pierce Butler.
GEORGIA.	William Few, Abraham Baldwin.

Atteſt. WILLIAM JACKSON, *Secretary.*

In Convention,

Monday, *September* 17*th*, 1787.

PRESENT,

The States of NEW-HAMPSHIRE, MASSACHUSETTS, CONNECTICUT, Mr. *Hamilton* from NEW-YORK, NEW-JERSEY, PENNSYLVANIA, DELAWARE, MARYLAND, VIRGINIA, NORTH-CAROLINA, SOUTH-CAROLINA and GEORGIA:

RESOLVED,

THAT the preceding conſtitution be laid before the United States in Congreſs aſſembled, and that it is the opinion of this Convention, that it ſhould afterwards be ſubmitted to a Convention of Delegates, choſen in each ſtate by the people thereof, under the recommendation of its Legiſlature, for their aſſent and ratification; and that each Convention aſſenting to, and ratifying the ſame, ſhould give notice thereof to the United States in Congreſs aſſembled.

RESOLVED, That it is the opinion of this Convention, that as ſoon as the Conventions of nine ſtates ſhall have ratified this conſtitution, the United States in Congreſs aſſembled ſhould fix a day on which electors ſhould be appointed by the ſtates which ſhall have ratified

ratified the ſame, and a day on which the electors ſhould aſſemble to vote for the Preſident, and the time and place for commencing proceedings under this conſtitution. That after ſuch publication the electors ſhould be appointed, and the Senators and Repreſentatives elected: That the electors ſhould meet on the day fixed for the election of the Preſident, and ſhould tranſmit their votes certified, ſigned, ſealed and directed, as the conſtitution requires, to the Secretary of the United States in Congreſs aſſembled, that the Senators and Repreſentatives ſhould convene at the time and place aſſigned; that the Senators ſhould appoint a preſident of the Senate, for the ſole purpoſe of receiving, opening and counting the votes for Preſident: and, that after he ſhall be choſen, the Congreſs, together with the Preſident, ſhould, without delay, proceed to execute this conſtitution.

By the unanimous order of the Convention,

GEORGE WASHINGTON, *Preſident.*

WILLIAM JACKSON, *Secretary.*

In Convention,

September 17th, 1787.

SIR,

WE have now the honour to ſubmit to the conſideration of the United States in Congreſs aſſembled, that conſtitution which has appeared to us the moſt adviſeable.

The friends of our country have long ſeen and deſired, that the power of making war, peace and treaties, that of levying money and regulating commerce, and the correſpondent executive and judicial authorities ſhould be fully and effectually veſted in the general government of the Union: But the impropriety of delegating ſuch extenſive truſt to one body of men

men is evident. Hence reſults the neceſſity of a different organization.

It is obviouſly impracticable in the federal government of theſe States, to ſecure all rights of independent ſovereignty to each, and yet provide for the intereſt and ſafety of all: Individuals entering into ſociety, muſt give up a ſhare of liberty to preſerve the reſt. The magnitude of the ſacrifice muſt depend as well on ſituation and circumſtance, as on the object to be obtained. It is at all times difficult to draw with preciſion the line between thoſe rights which muſt be ſurrendered, and thoſe which may be reſerved; and on the preſent occaſion this difficulty was increaſed by a difference among the ſeveral ſtates as to their ſituation, extent, habits, and particular intereſts.

In all our deliberations, on this ſubject, we kept ſteadily in our view, that which appears to us the greateſt intereſt of every true American, the conſolidation of our union, in which is involved our proſperity, felicity, ſafety, perhaps our national exiſtence. This important conſideration, ſeriouſly and deeply impreſſed on our minds, led each ſtate in the Convention to be leſs rigid on points of inferior magnitude, than might have been otherwiſe expected; and thus the conſtitution, which we now preſent, is the reſult of a ſpirit of amity, and of that mutual deference, and conceſſion which the peculiarity of our political ſituation rendered indiſpenſible.

That it will meet the full and entire approbation of every ſtate is not perhaps to be expected; but each will doubtleſs conſider, that had her intereſt been alone conſulted, the conſequences might have been particularly diſagreeable or injurious to others; that it is liable to as few exceptions as could reaſonably have been expected we hope and believe; that it may promote the laſting welfare of that country ſo dear to us all, and ſecure her freedom and happineſs, is our moſt ardent wiſh.

With great reſpect, we have the honour to be, Sir,
Your Excellency's moſt obedient and humble ſervants.

GEORGE WASHINGTON, *Preſident*
By unanimous order of the Convention.

His Excellency the PRESIDENT of CONGRESS.

The United States in Congreſs Aſſembled

Friday, *September* 28th, 1787.

PRESENT,

NEW-HAMPSHIRE, MASSACHUSETTS, CONNECTICUT, NEW-YORK, NEW-JERSEY, PENNSYLVANIA, DELAWARE, VIRGINIA, NORTH-CAROLINA, SOUTH-CAROLINA, and GEORGIA, and from MARYLAND, *Mr. Roſs.*

Congreſs having received the report of the Convention lately Aſſembled in Philadelphia,

RESOLVED UNANIMOUSLY,

That the ſaid report, with the reſolutions and letter accompanying the ſame, be tranſmitted to the ſeveral Legiſlatures, in order to be ſubmitted to a Convention of Delegates, choſen in each ſtate by the people thereof, in conformity to the reſolves of the Convention made and provided in that caſe.

CHARLES THOMPSON, Secretary.

☞ *The Conſtitution of the United States was unanimouſly ratified, on behalf of the State of Delaware, then the* DELAWARE STATE, *by the Convention thereof, on the ſeventh day of December*, 1787.

CONGRESS

CONGRESS OF THE UNITED STATES, BEGUN AND HELD AT THE CITY OF NEW-YORK, ON WEDNESDAY, THE FOURTH OF MARCH, ONE THOUSAND SEVEN HUNDRED AND EIGHTY-NINE.

The Conventions of a number of the ſtates having at the time of their adopting the Conſtitution expreſſed a deſire, in order to prevent miſconſtruction or abuſe of its powers, that further declaratory and reſtrictive clauſes ſhould be added: And as extending the ground of public confidence in the government will beſt inſure the benificent ends of its inſtitution—

RESOLVED, by the Senate and Houſe of Repreſentatives of the United States of America in Congreſs aſſembled, two thirds of both Houſes concurring, That the following articles be propoſed to the Legiſlatures of the ſeveral ſtates, as amendments to the Conſtitution of the United States, all or any of which articles, when ratified by three-fourths of the ſaid Legiſlatures, to be valid to all intents and purpoſes, as part of the ſaid conſtitution, viz.

ARTICLES in addition to, and amendment of, the CONSTITUTION OF THE UNITED STATES OF AMERICA, propoſed by Congreſs, and ratified by the Legiſlatures of the ſeveral ſtates, purſuant to the fifth article of the original conſtitution.

Article the Firſt.

After the firſt enumeration required by the firſt article of the conſtitution, there ſhall be one Repreſentative for every thirty thouſand, until the number ſhall amount to one hundred, after which the proportion ſhall be ſo regulated by Congreſs, that there ſhall be not leſs than one hundred Repreſentatives, nor leſs than one Repreſentative for every forty thouſand perſons, until the number of Repreſentatives ſhall amount to two hundred; after which the proportion ſhall be ſo regulated by Congreſs, that there ſhall not be leſs than two hundred Repreſentatives, Of repreſentation.

nor

nor more than one Repreſentative for every fifty thouſand perſons.

Article the Second.

Of the compenſation of members of Congreſs.

No law varying the compenſation for the ſervices of the Senators and Repreſentatives ſhall take effect, until an election of Repreſentatives ſhall have intervened.

Article the Third.

Of the rights of conſcience, freedom of the preſs, &c

Congreſs ſhall make no law reſpecting an eſtabliſhment of religion, or prohibiting the free exerciſe thereof, or abridging the freedom of ſpeech, or of the preſs; or the right of the people peaceably to aſſemble, and to petition the government for a redreſs of grievances.

Article the Fourth.

Of the right to bear arms.

A well regulated militia being neceſſary to the ſecurity of a free ſtate, the right of the people to keep and bear arms ſhall not be infringed.

Article the Fifth.

Of quartering ſoldiers.

No ſoldier ſhall in time of peace be quartered in any houſe without the conſent of the owner; nor in time of war, but in a manner to be preſcribed by law.

Article the Sixth

Of ſecurity from ſearches, ſeizures and general warrants.

The right of the people to be ſecure in their perſons, houſes, papers, and effects, againſt unreaſonable ſearches and ſeizures, ſhall not be violated; and no warrants ſhall iſſue but upon probable cauſe, ſupported by oath or affirmation, and particularly deſcribing the place to be ſearched, and the perſons or things to be ſeized.

Article the Seventh.

Of indictments, puniſhments, &c.

No perſon ſhall be held to anſwer for a capital, or otherwiſe infamous crime, unleſs on a preſentment or indictment of a Grand Jury, except in caſes ariſing

in

in the land or naval forces, or in the militia when in actual ſervice in time of war or public danger; nor ſhall any perſon be ſubject for the ſame offence to be twice put in jeopardy of life or limb; nor ſhall be compelled in any criminal caſe, to be a witneſs againſt himſelf, nor be deprived of life, liberty or property, without due proceſs of law; nor ſhall private property be taken for public uſe without juſt compenſation.

Article the Eighth.

In all criminal proſecutions the accuſed ſhall enjoy the right to a ſpeedy and public trial, by an impartial jury of the ſtate and diſtrict wherein the crime ſhall have been committed, which diſtrict ſhall have been previouſly aſcertained by law, and to be informed of the nature and cauſe of the accuſation; to be confronted with the witneſſes againſt him; to have compulſory proceſs for obtaining witneſſes in his favor, and to have the aſſiſtance of counſel for his defence. Of the rights of the accuſed in criminal caſes.

Article the Ninth.

In ſuits at common law, where the value in controverſy ſhall exceed Twenty Dollars, the right of trial by jury ſhall be preſerved, and no fact, tried by a jury, ſhall be otherwiſe re-examined in any court of the United States, than according to the rules of the common law. Of trial in civil caſes.

Article the Tenth.

Exceſſive bail ſhall not be required, nor exceſſive fines impoſed, nor cruel and unuſual puniſhments inflicted. Of bail, fines, &c.

Article the Eleventh.

The enumeration in the conſtitution, of certain rights, ſhall not be conſtrued to deny or diſparage others retained by the people. Of rights reſerved.

Article the Twelfth.

The powers not delegated to the United States by the Of powers reſerved.

the conſtitution, nor prohibited by it to the ſtates, are reſerved to the ſtates reſpectively, or to the people.

FREDERICK AUGUSTUS MUHLENBERG,
Speaker of the Houſe of Repreſentatives.

JOHN ADAMS, *Vice-Preſident of the United States, and Preſident of the Senate.*

ATTEST. { JOHN BECKLEY, *Clerk of the Houſe of Repreſentatives.*
SAMUEL A. OTIS, *Secretary of the Senate.*

☞ *All the preceding amendments, propoſed by Congreſs, except the firſt, were ratified, on behalf of the State of Delaware, then the* DELAWARE STATE, *by reſolutions of the two Houſes of the General Aſſembly, paſſed the twenty-eighth day of January,* 1790.

Third Congreſs of the United States:

AT THE FIRST SESSION,

Begun and held at the City of Philadelphia, in the State of Pennſylvania, on Monday the ſecond of December, One Thouſand Seven Hundred and Ninety-three.

RESOLVED, by the Senate and Houſe of Repreſentatives of the United States of America in Congreſs aſſembled, two-thirds of both Houſes concurring, That the following article be propoſed to the Legiſlatures of the ſeveral ſtates, as an amendment to the Conſtitution of the United States; which when ratified by three fourths of the ſaid Legiſlatures ſhall be valid as part of the ſaid conſtitution, viz.

Reſtriction on the judicial power.

The judicial power of the United States ſhall not be conſtrued to extend to any ſuit in law or equity, commenced

commenced or profecuted againſt one of the United States by citizens of another ſtate, or by citizens or ſubjects of any foreign ſtate.

FREDERICK AUGUSTUS MUHLENBERG,
Speaker of the Houſe of Repreſentatives.

JOHN ADAMS, *Vice-Preſident of the United States, and Preſident of the Senate.*

ATTEST. { JOHN BECKLEY, *Clerk of the Houſe of Repreſentatives.*
SAMUEL A. OTIS, *Secretary of the Senate.*

☞ *The above amendment, propoſed by Congreſs, was ratified, on behalf of the State of Delaware, by an Act of the General Aſſembly, paſſed the 22d January 1795, Chap* 68

THE

THE CONSTITUTION OF THE State of Delaware.

WE, the People, hereby ordain and eſtabliſh this Conſtitution of Government for the STATE OF DELAWARE.

Of the rights of men, the origin of power, and the end of government.

THROUGH divine goodneſs, all men have by nature, the rights of worſhipping and ſerving their Creator according to the dictates of their conſciences, of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and in general of attaining objects ſuitable to their condition, without injury by one to another; and as theſe rights are eſſential to their welfare, for the due exerciſe thereof, power is inherent in them; and therefore all juſt authority in the inſtitutions of political ſociety is derived from the people, and eſtabliſhed with their conſent, to advance their happineſs: and they may for this end, as circumſtances require, from time to time alter their conſtitution of government.

ARTICLE I.

Of the rights of conſcience.

SECTION 1. Although it is the duty of all men frequently to aſſemble together for the public worſhip of the Author of the univerſe; and piety and morality, on which the proſperity of communities depends, are thereby promoted; yet no man ſhall or ought to be compelled to attend any religious worſhip, to contribute to the erection

erection or ſupport of any place of worſhip, or to the maintenance of any miniſtry, againſt his own free will and conſent; and no power ſhall or ought to be veſted in or aſſumed by any magiſtrate, that ſhall in any caſe interfere with, or in any manner control the rights of conſcience, in the free exerciſe of religious worſhip, nor a preference given by law to any religious ſocieties, denominations, or modes of worſhip.

Of religious teſt.

SECT. 2. No religious teſt ſhall be required as a qualification to any office, or public truſt, under this ſtate.

Of elections.

SECT. 3. All elections ſhall be free and equal.

Of trial by jury.

SECT. 4. Trial by jury ſhall be as heretofore.

Of the liberty of the preſs.

SECT. 5. The preſs ſhall be free to every citizen, who undertakes to examine the official conduct of men acting in a public capacity; and any citizen may print on any ſubject, being reſponſible for the abuſe of that liberty. In proſecutions for publications, inveſtigating the proceedings of officers, or where the matter publiſhed is proper for public information, the truth thereof may be given in evidence: And in all indictments for libels the jury may determine the facts and the law, as in other caſes.

Of ſecurity from ſearches and ſeizures.

SECT. 6. The people ſhall be ſecure in their perſons, houſes, papers, and poſſeſſions, from unreaſonable ſearches and ſeizures; and no warrant to ſearch any place, or to ſeize any perſon or things, ſhall iſſue without deſcribing them as particularly as may be; nor then, unleſs there be probable cauſe ſupported by oath or affirmation.

Of the rights of the accuſed in criminal proſecutions.

SECT. 7. In all criminal proſecutions, the accuſed hath a right to be heard by himſelf and his counſel, to be plainly and fully informed of the nature and cauſe of the accuſation againſt him, to meet the witneſſes in their examination face to face, to have compulſory proceſs in due time, on application by himſelf, his friends or counſel, for obtaining witneſſes in his favour, and a ſpeedy and public trial by an impartial jury: He ſhall not be compelled to give evidence againſt himſelf; nor ſhall be deprived of life, liberty, or property, unleſs by the judgment of his peers, or the law of the land.

SECT. 8. No perſon ſhall for any indictable of-

Of informations, &c.

fence be proceeded againſt criminally by information, except in caſes ariſing in the land or naval forces, or in the militia when in actual ſervice in time of war or public danger; and no perſon ſhall be for the ſame offence twice put in jeopardy of life or limb; nor ſhall any man's property be taken or applied to public uſe, without the conſent of his Repreſentatives, and without compenſation being made.

Of courts of juſtice.

SECT. 9. All courts ſhall be open; and every man for an injury done him in his reputation, perſon, moveable or immoveable poſſeſſions, ſhall have remedy by the due courſe of law, and juſtice adminiſtered according to the very right of the cauſe, and the law of the land, without ſale, denial, or unreaſonable delay or expenſe; and every action ſhall be tried in the county in which it ſhall be commenced, unleſs when the judges of the court in which the cauſe is to be tried, ſhall determine that an impartial trial therefore cannot be had in that county. Suits may be brought againſt the ſtate, according to ſuch regulations as ſhall be made by law.

Of ſuſpending laws.

SECT. 10. No power of ſuſpending laws ſhall be exerciſed, but by authority of the Legiſlature.

Of bail, fines, &c.

SECT. 11. Exceſſive bail ſhall not be required, nor exceſſive fines impoſed, nor cruel puniſhments inflicted: And in the conſtruction of gaols, a proper regard ſhall be had to the health of priſoners.

Of priſoners.

SECT. 12. All priſoners ſhall be bailable by ſufficient ſureties, unleſs for capital offences when the proof is poſitive or the preſumption great; and when perſons are confined on accuſation for ſuch offences, their friends and counſel may at proper ſeaſons have acceſs to them.

Of the Habeas Corpus.

SECT. 13. The privilege of the writ of *Habeas Corpus* ſhall not be ſuſpended, unleſs when in caſes of rebellion or invaſion, the public ſafety may require it.

Of oyer and terminer.

SECT. 14. No commiſſion of Oyer and Terminer or goal delivery ſhall be iſſued.

Of attainder. Felo de ſe, and deodand.

SECT. 15. No attainder ſhall work corruption of blood, nor except during the life of the offender, forfeiture of eſtate. The eſtates of thoſe who deſtroy their own lives ſhall deſcend or veſt as in caſe of natural death,

death, and if any perſon be killed by accident, no forfeiture ſhall be thereby incurred.

Of the right to aſſemble, petition, &c.

SECT. 16. Although diſobedience to laws by a part of the people, upon ſuggeſtions of impolicy or injuſtice in them, tends by immediate effect and the influence of example, not only to endanger the public welfare and ſafety, but alſo in governments of a republican form, contravenes the ſocial principles of ſuch governments, founded on common conſent for common good; yet the citizens have a right in an orderly manner to meet together, and to apply to perſons intruſted with the powers of government, for redreſs of grievances or other proper purpoſes, by petition, remonſtrance, or addreſs.

Of the military

SECT. 17. No ſtanding army ſhall be kept up without the conſent of the Legiſlature; and the military ſhall, in all caſes, and at all times, be in ſtrict ſubordination to the civil power.

Of quartering troops.

SECT. 18. No ſoldier ſhall in time of peace be quartered in any houſe without the conſent of the owner; nor in time of war, but by a civil magiſtrate, in a manner to be preſcribed by law.

Of titles and offices.

SECT. 19. No hereditary diſtinction ſhall be granted, nor any office created or exerciſed, the appointment to which ſhall be for a longer term than during good behaviour; and no perſon holding any office under this ſtate, ſhall accept of any office, or title of any kind whatever, from any King, Prince, or foreign ſtate.

Reſervation

We declare that every thing in this article is reſerved out of the general powers of government here-in-after mentioned.

ARTICLE II.

Of the Legiſlative power.

SECT. 1. The Legiſlative power of this ſtate ſhall be veſted in a General Aſſembly, which ſhall conſiſt of a Senate and Houſe of Repreſentatives.

Election of Repreſentatives.

SECT. 2. The Repreſentatives ſhall be choſen annually by the citizens reſiding in the ſeveral counties reſpectively, on the firſt Tueſday of October.

No

Their qualifications.

No perſon ſhall be a Repreſentative who ſhall not have attained to the age of twenty-four years, and have a freehold in the county in which he ſhall be choſen, have been a citizen and inhabitant of the ſtate three years next preceding the firſt meeting of the Legiſlature after his election, and the laſt year of that term an inhabitant of the county in which he ſhall be choſen, unleſs he ſhall have been abſent on the public buſineſs of the United States or of this ſtate.

Number.

There ſhall be ſeven Repreſentatives choſen in each county, until a greater number of Repreſentatives ſhall by the General Aſſembly be judged neceſſary; and then, two-thirds of each branch of the Legiſlature concurring, they may by law make proviſion for increaſing their number.

Election of Senators.

SECT. 3. The Senators ſhall be choſen for three years by the citizens reſiding in the ſeveral counties reſpectively, having right to vote for Repreſentatives, at the ſame time when they ſhall vote for Repreſentatives, in the ſame manner, and at the ſame places.

Their qualifications.

No perſon ſhall be a Senator who ſhall not have attained to the age of twenty-ſeven years, and have in the county in which he ſhall be choſen, a freehold eſtate in two hundred acres of land, or an eſtate in real and perſonal property, or in either, of the value of One Thouſand Pounds at leaſt, and have been a citizen and inhabitant of the ſtate three years next preceding the firſt meeting of the Legiſlature after his election, and the laſt year of that term an inhabitant of the county in which he ſhall be choſen, unleſs he ſhall have been abſent on the public buſineſs of the United States or of this ſtate.

Number.

There ſhall be three Senators choſen in each county. When a greater number of Senators ſhall by the General Aſſembly be judged neceſſary, two-thirds of each branch concurring, they may by law make proviſion for increaſing their number; but the number of Senators ſhall never be greater than one-half, nor leſs than one-third of the number of Repreſentatives.

Of claſſing the Senators.

Immediately after the Senators ſhall be aſſembled in conſequence of the firſt election, the Senators reſiding in each county ſhall be divided by lot into three claſſes.

claſſes. The ſeats of the Senators of the firſt claſs ſhall be vacated at the expiration of the firſt year; of the ſecond claſs at the expiration of the ſecond year; and of the third claſs at the expiration of the third year; ſo that one third may be choſen every year.

Meeting of the General Aſſembly.

SECT. 4. The General Aſſembly ſhall meet on the firſt Tueſday of January in every year, unleſs ſooner convened by the Governor.

Of the officers of each Houſe.

SECT. 5. Each Houſe ſhall chooſe its Speaker and other officers; and alſo each Houſe, whoſe Speaker ſhall exerciſe the office of Governor, may chooſe a Speaker *pro tempore*.

Powers of each Houſe.

SECT. 6. Each Houſe ſhall judge of the elections, returns, and qualifications of its own members; and a majority of each ſhall conſtitute a quorum to do buſineſs; but a ſmaller number may adjourn from day to day, and ſhall be authoriſed to compel the attendance of abſent members, in ſuch manner, and under ſuch penalties, as ſhall be deemed expedient.

Of cenſure and expulſion.

SECT. 7. Each Houſe may determine the rules of its proceedings, puniſh any of its members for diſorderly behaviour, and with the concurrence of two-thirds, expel a member; and ſhall have all other powers neceſſary for a branch of the Legiſlature of a free and independent ſtate.

Of journals.

SECT. 8. Each Houſe ſhall keep a journal of its proceedings, and publiſh them immediately after every ſeſſion, except ſuch parts as may require ſecrecy; and the yeas and nays of the members on any queſtion, ſhall at the deſire of any member, be entered on the journal.

The doors to be open.

SECT. 9. The doors of each Houſe, and of committees of the whole, ſhall be open, unleſs when the buſineſs is ſuch as ought to be kept ſecret.

Of adjournments.

SECT. 10. Neither Houſe ſhall, without the conſent of the other, adjourn for more than three days, nor to any other place than that in which the two Houſes ſhall be ſitting.

Of the compenſation and privileges of members.

SECT. 11. The Senators and Repreſentatives ſhall receive a compenſation for their ſervices, to be aſcertained by law, and paid out of the treaſury of the ſtate; but, no law varying the compenſation ſhall take

effect,

effect, till an election of Repreſentatives ſhall have intervened. They ſhall in all caſes, except treaſon, felony, or breach of the peace, be privileged from arreſt during their attendance at the ſeſſion of their reſpective Houſes, and in going to and returning from the ſame; and for any ſpeech or debate in either Houſe, they ſhall not be queſtioned in any other place.

Diſqualification of members.

SECT. 12. No Senator nor Repreſentative ſhall, during the time for which he ſhall have been elected, be appointed to any civil office under this ſtate, which ſhall have been created, or the emoluments of which ſhall have been increaſed during ſuch time. No perſon concerned in any army or navy contract, no member of Congreſs, nor any perſon holding any office under this ſtate, or the United States, except the attorney-general, officers uſually appointed by the courts of juſtice reſpectively, attornies at law, and officers in the militia, holding no diſqualifying office, ſhall, during his continuance in Congreſs or in office, be a Senator or Repreſentative.

Of vacancies.

SECT. 13. When vacancies happen in either Houſe, writs of election ſhall be iſſued by the Speakers reſpectively, or in caſes of neceſſity, in ſuch other manner as ſhall be provided for by law; and the perſons thereupon choſen ſhall hold their ſeats as long as thoſe in whoſe ſtead they are elected might have done, if ſuch vacancies had not happened.

Of revenue bills.

SECT. 14. All bills for raiſing revenue ſhall originate in the Houſe of Repreſentatives; but, the Senate may propoſe alterations as on other bills; and no bill, from the operation of which, when paſſed into a law, revenue may incidentally ariſe, ſhall be accounted a bill for raiſing revenue; nor ſhall any matter or clauſe whatever, not immediately relating to and neceſſary for raiſing revenue, be in any manner blended with, or annexed to, a bill for raiſing revenue.

Of the treaſury.

SECT. 15. No money ſhall be drawn from the treaſury, but in conſequence of appropriations made by law; and a regular ſtatement and account of the receipts and expenditures of all public money ſhall be publiſhed annually.

ARTICLE

ARTICLE III.

SECT. 1. The ſupreme executive powers of this ſtate ſhall be veſted in a Governor. Of the executive power.

SECT. 2. The Governor ſhall be choſen on the firſt Tueſday of October, by the citizens of the ſtate having right to vote for Repreſentatives, in the counties where they reſpectively reſide, at the places where they ſhall vote for Repreſentatives. Of the election of the Governor.

The returns of every election for Governor ſhall be ſealed up, and immediately delivered by the returning officers of the ſeveral counties to the Speaker of the Senate, or in caſe of his death, to the Speaker of the Houſe of Repreſentatives, who ſhall keep the ſame until a Speaker of the Senate ſhall be appointed, to whom they ſhall be immediately delivered after his appointment, who ſhall open and publiſh the ſame in the preſence of the members of both Houſes of the Legiſlature. Duplicates of the ſaid returns ſhall alſo be immediately lodged with the Prothonotary of each county. The perſon having the higheſt number of votes ſhall be Governor: But, if two or more ſhall be equal in the higheſt number of votes, the members of the two Houſes ſhall, by joint ballot, chooſe one of them to be Governor; and if upon ſuch ballot, two or more of them ſhall ſtill be equal and higheſt in votes, the Speaker of the Senate ſhall have an additional caſting vote.

Conteſted elections of a Governor ſhall be determined by a joint committee, conſiſting of one-third of all the members of each branch of the Legiſlature, to be ſelected by ballot of the Houſes reſpectively: Every perſon of the committee ſhall take an oath or affirmation, that in determining the ſaid election, he will faithfully diſcharge the truſt repoſed in him; and the committee ſhall always ſit with open doors.

SECT. 3. The Governor ſhall hold his office during three years from the third Tueſday of January next enſuing his election; and ſhall not be capable of holding it longer than three in any term of ſix years. His continuance in office.

SECT. 4. He ſhall be at leaſt thirty years of age, and have been a citizen and inhabitant of the United His qualifications.

States

States twelve years next before the firſt meeting of the Legiſlature after his election, and the laſt ſix of that term an inhabitant of this ſtate, unleſs he ſhall have been abſent on the public buſineſs of the United States or of this ſtate.

Perſons diſqualified to be Governor.

SECT. 5. No member of Congreſs, nor perſon holding any office under the United States or this ſtate, ſhall exerciſe the office of Governor.

Of his compenſation.

SECT. 6. The Governor ſhall at ſtated times receive for his ſervices an adequate ſalary, to be fixed by law, which ſhall be neither increaſed nor diminiſhed during the period for which he ſhall have been elected.

His military power.

SECT. 7. He ſhall be Commander in Chief of the army and navy of this ſtate, and of the militia; except when they ſhall be called into the ſervice of the United States.

His general powers.

SECT. 8. He ſhall appoint all officers whoſe offices are eſtabliſhed by this conſtitution or ſhall be eſtabliſhed by law, and whoſe appointments are not herein otherwiſe provided for; but no perſon ſhall be appointed to an office within a county, who ſhall not have a right to vote for Repreſentatives, and have been an inhabitant therein one year next before his appointment, nor hold the office longer than he continues to reſide in the county. No member of Congreſs, nor any perſon holding or exerciſing any office under the United States, ſhall at the ſame time hold or exerciſe the office of judge, treaſurer, attorney-general, ſecretary, clerk of the Supreme Court, prothonotary, regiſter for the probate of wills and granting letters of adminiſtration, recorder, ſheriff, or any office under this ſtate with a ſalary by law annexed to it, or any other office which the Legiſlature ſhall declare incompatible with offices or appointments under the United States. No perſon ſhall hold more than one of the following offices at the ſame time, to wit, treaſurer, attorney-general, clerk of the Supreme Court, prothonotary, regiſter, or ſheriff. All commiſſions ſhall be in the name of the ſtate, ſhall be ſealed with the great ſeal, and be ſigned and teſted by the Governor.

Perſons diſqualified to hold certain offices.

Of pardons, &c.

SECT. 9. He ſhall have power to remit fines and forfeitures; and to grant reprieves and pardons, except in caſes of impeachment.

SECT.

Sect. 10. He may require information in writing from the officers in the executive department, upon any ſubject relating to the duties of their reſpective offices. Of obtaining information.

Sect. 11. He ſhall from time to time give to the General Aſſembly information of affairs concerning the ſtate; and recommend to their conſideration ſuch meaſures as he ſhall judge expedient. Of giving information to the Legiſlature.

Sect. 12. He may on extraordinary occaſions convene the General Aſſembly; and in caſe of diſagreement between the two Houſes with reſpect to the time of adjournment, adjourn them to ſuch time as he ſhall think proper, not exceeding three months. Of convening and adjourning the two Houſes.

Sect. 13. He ſhall take care that the laws be faithfully executed.

Sect. 14. On the death or reſignation of the Governor, or his removal from office on impeachment, or for inability, the Speaker of the Senate at that time ſhall exerciſe the office of Governor, until a new Governor ſhall be duly qualified; and on the death or reſignation of the Speaker of the Senate, the Speaker of the Houſe of Repreſentatives at that time ſhall exerciſe the office, until it be regularly veſted in a new Governor. If the trial of a conteſted election ſhall continue longer than until the third Tueſday of January next enſuing the election of a Governor, the Governor of the laſt year, or the Speaker of the Senate, or of the Houſe of Repreſentatives, who may then be in the exerciſe of the executive authority, ſhall continue therein until a determination of ſuch conteſted election. The Governor ſhall not be removed from his office for inability, but with the concurrence of two-thirds of all the members of each branch of the Legiſlature. Who ſhall exerciſe the office of Governor, in caſe of his death, &c.

Sect. 15. A Secretary ſhall be appointed and commiſſioned during the Governor's continuance in office, if he ſhall ſo long behave himſelf well. He ſhall keep a fair regiſter of all the official acts and proceedings of the Governor; and ſhall, when required by either branch of the Legiſlature, lay the ſame, and all papers, minutes, and vouchers, relative thereto, before them; and ſhall perform ſuch other duties as Of the Secretary.

ſhall be enjoined him by law. He ſhall have a compenſation for his ſervices to be fixed by law.

ARTICLE IV.

Of elections.

SECT. 1. All elections of Governor, Senators, and Repreſentatives, ſhall be by ballot; and in ſuch elections every white free man of the age of twenty-one years, having reſided in the ſtate two years next before the election, and within that time paid a ſtate or county tax, which ſhall have been aſſeſſed at leaſt ſix months before the election, ſhall enjoy the right of an elector; and the ſons of perſons ſo qualified, ſhall between the ages of twenty-one and twenty-two years, be entitled to vote, although they ſhall not have paid taxes.

SECT. 2. Electors ſhall in all caſes except treaſon, felony, or breach of the peace, be privileged from arreſt during their attendance at elections, and in going to, and returning from them.

ARTICLE V.

Of impeachment.

SECT. 1. The Houſe of Repreſentatives ſhall have the ſole power of impeaching; but two-thirds of all the members muſt concur in an impeachment. All impeachments ſhall be tried by the Senate, and when ſitting for that purpoſe, the Senators ſhall be upon oath or affirmation to do juſtice according to the evidence. No perſon ſhall be convicted without the concurrence of two-thirds of all the Senators.

SECT. 2. The Governor, and all other civil officers under this ſtate, ſhall be liable to impeachment for treaſon, bribery, or any high crime or miſdemeanor in office. Judgment in ſuch caſes ſhall not extend further than to removal from office, and diſqualification to hold any office of honor, truſt or profit under this ſtate; but the party convicted ſhall nevertheleſs be ſubject to indictment, trial, judgment and puniſhment according to law.

Of treaſon.

SECT. 4. Treaſon againſt this ſtate ſhall conſiſt only in levying war againſt it, or in adhering to the enemies of the government, giving them aid and comfort.

fort. No perſon ſhall be convicted of treaſon, unleſs on the teſtimony of two witneſſes to the ſame overt act, or on confeſſion in open court.

ARTICLE VI.

Of the judicial power.

SECT. 1. The Judicial Power of this ſtate ſhall be veſted in a Court of Chancery, a Supreme Court, and Courts of Oyer and Terminer and General Gaol delivery, in a Court of Common Pleas, and in an Orphans Court, Regiſter's Court, and a Court of Quarter Seſſions of the Peace for each county, in Juſtices of the Peace, and in ſuch other courts as the Legiſlature, two-thirds of all the members of each branch concurring, may from time to time eſtabliſh.

Of the chancellor and judges.

SECT. 2. The Chancellor, and the Judges of the Supreme Court and of the Court of Common Pleas, ſhall hold their offices during good behaviour; but for any reaſonable cauſe which ſhall not be a ſufficient ground for an impeachment, the Governor may in his diſcretion remove any of them, on the addreſs of two thirds of all the members of each branch of the Legiſlature. They ſhall at ſtated times receive for their ſervices adequate ſalaries, to be fixed by law, which ſhall not be diminiſhed during their continuance in office, and ſhall be payable quarterly to their reſpective orders upon the Treaſurer, out of any monies in the treaſury; but they ſhall hold no other office of profit, nor receive any fees or perquiſites, except ſuch fees as ſhall be fixed by law for buſineſs to be done out of court.

Of the Supreme Court.

SECT. 3. The Judges of the Supreme Court ſhall be not fewer than three, nor more than four, one of whom ſhall be Chief Juſtice. There ſhall be a Judge reſiding in each county. The juriſdiction of this court ſhall extend over the ſtate. The judges ſhall by virtue of their offices, be Juſtices of Oyer and Terminer and General Gaol delivery in the ſeveral counties. Any two of the judges may act as if all were preſent.

Of the Court of Common Pleas.

SECT. 4. The Judges of the Court of Common Pleas ſhall be not fewer than three, nor more than four, one of whom ſhall be Chief Juſtice. There

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ſhall be a judge reſiding in each county. The juriſdiction of this court ſhall extend over the ſtate. Any two of the judges may act as if all were preſent.

Of the writ of Habeas Corpus.

SECT. 5. The Chancellor, or any Judge of the Supreme Court or of the Court of Common Pleas, ſhall iſſue the writ of *Habeas Corpus* in vacation time and out of term, when duly applied for, which ſhall be immediately obeyed.

Of the acknowledgment of deeds.

SECT. 6. Any Judge of the Supreme Court or of the Court of Common Pleas may, unleſs the Legiſlature ſhall otherwiſe provide by law, out of court, take the acknowledgment of deeds; and the ſame being thereon certified, under his hand, ſuch deeds ſhall be recorded and have the ſame effect as if acknowledged in open court.

Of amendments in pleadings before judgment

SECT. 7. In civil cauſes when pending, the Supreme Court and Court of Common Pleas ſhall have the power before judgment, of directing upon ſuch terms as they ſhall deem reaſonable, amendments in pleadings and legal proceedings, ſo that by error in any of them, the determination of cauſes, according to their real merits, ſhall not be hindered; and alſo of directing the examination of witneſſes that are aged, very infirm, or going out of the ſtate, upon interrogatories *De bene eſſe*, to be read in evidence, in caſe of the death or departure of the witneſſes before the trial, or inability by reaſon of age, ſickneſs, bodily infirmity or impriſonment, then to attend; and alſo the power of obtaining evidence from places not within the ſtate.

and obtaining evidence.

Of original juriſdiction.

SECT. 8. Suits may originate in the Supreme Court or Court of Common Pleas.

Of the powers of a ſingle judge.

SECT. 9. One Judge of the Supreme Court or of the Court of Common Pleas may, if the other judges come not, open and adjourn the court, and may alſo make the neceſſary rules preparatory reſpectively to the trial or argument of cauſes.

Of bringing money into court.

SECT. 10. At any time pending an action for debt or damages, the defendant may bring into court a ſum of money for diſcharging the ſame and the coſts then accrued, and the plaintiff not accepting thereof, it ſhall be delivered for his uſe to the Clerk or Prothonotary of the court; and if upon the final deciſion of the cauſe, the plaintiff ſhall not recover a greater

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ſum than that ſo paid into court for him, he ſhall not recover any coſts accruing after ſuch payment, except where the plaintiff is an executor or adminiſtrator.

Of the abatement of ſuits.

SECT. 11. By the death of any party, no ſuit in chancery or at law, where the cauſe of action ſurvives, ſhall abate; but, until the Legiſlature ſhall otherwiſe provide, ſuggeſtion of ſuch death being entered of record, the executor or adminiſtrator of a deceaſed petitioner or plaintiff may proſecute the ſaid ſuit; and if a reſpondent or defendant dies, the executor or adminiſtrator being duly ſerved with a *Scire Facias*, thirty days before the return thereof, ſhall be conſidered as a party to the ſuit, in the ſame manner as if he had voluntarily made himſelf a party; and in any of thoſe caſes, the court ſhall paſs a decree, or render judgment, for or againſt executors or adminiſtrators, as to right appertains. But where an executor or adminiſtrator of a deceaſed reſpondent or defendant becomes a party, the court, upon motion, ſhall grant ſuch a continuance of the cauſe as to the judges ſhall appear proper.

Of ſecurity upon appeals or writs of error.

SECT. 12. Whenever a perſon, not being an executor or adminiſtrator, appeals from a decree of the Chancellor or applies for a writ of error, ſuch appeal or writ ſhall be no ſtay of proceeding in the chancery, or the court to which the writ iſſues, unleſs the appellant or plaintiff in error ſhall give ſufficient ſecurity, to be approved reſpectively by the Chancellor, or by a judge of the court from which the writ iſſues, that the appellant or plaintiff in error ſhall proſecute reſpectively his appeal or writ to effect, and pay the condemnation money and all coſts, or otherwiſe abide the decree in appeal or the judgment in error, if he fail to make his plea good.

Limitation in bringing writs of error.

SECT. 13. No writ of error ſhall be brought upon any judgment heretofore confeſſed, entered or rendered, but within five years from this time; nor upon any judgment hereafter to be confeſſed, entered or rendered, but within five years after the confeſſing, entering, or rendering thereof, unleſs the perſon entitled to ſuch writ be an infant, *feme covert*, *non compos mentis*, or a priſoner, and then within five years excluſive of the time of ſuch diſability.

SECT. 14

Of the Court of Chancery.

SECT. 14. The equity juriſdiction heretofore exerciſed by the Judges of the Court of Common Pleas, ſhall be ſeparated from the common law juriſdiction, and veſted in a Chancellor, who ſhall hold Courts of Chancery in the ſeveral counties of this ſtate. In caſes of equity juriſdiction, where the Chancellor is intereſted, the cognizance thereof ſhall belong to the Court of Common Pleas, with an appeal to the High Court of Errors and Appeals.

Of the Orphans Court.

SECT. 15. The Judges of the Court of Common Pleas, or any two of them, ſhall compoſe the Orphans Court of each county, and may exerciſe the equity juriſdiction heretofore exerciſed by the Orphans Courts, except as to the adjuſting and ſettling executors, adminiſtrators and guardians accounts; in which caſes they ſhall have an appellate juriſdiction from the ſentence or decree of the Regiſter. This court may iſſue proceſs throughout the ſtate, to compel the attendance of witneſſes. Appeals may be made from the Orphans Court, in caſes where that court has original juriſdiction, to the Supreme Court, whoſe deciſion ſhall be final.

Of the ſettlement of the accounts of executors, &c.

SECT. 16. An executor, adminiſtrator, or guardian, ſhall file every account with the Regiſter for the county, who ſhall as ſoon as conveniently may be, carefully examine the particulars with the proofs thereof, in the preſence of ſuch executor, adminiſtrator, or guardian, and ſhall adjuſt and ſettle the ſame, according to the very right of the matter, and the law of the land; which account ſo ſettled, ſhall remain in his office for inſpection; and the executor, adminiſtrator, or guardian, ſhall within three months after ſuch ſettlement, give due notice in writing to all perſons entitled to ſhares of the eſtate, or to their guardians reſpectively, if reſiding within the ſtate, that the account is lodged in the ſaid office for inſpection; and the Judges of the Orphans Court ſhall hear the exceptions of any perſons concerned, if any be made, and thereupon allow no demand whatever againſt the eſtate of the deceaſed, unleſs upon conſideration of all circumſtances, they ſhall be fully convinced that the ſame is therewith juſtly chargeable.

SECT.

Of the Regiſter's Court.

SECT. 17. The Regiſters of the ſeveral counties ſhall reſpectively hold the Regiſter's Court in each county. Upon the litigation of a cauſe, the depoſitions of the witneſſes examined, ſhall be taken at large in writing, and make part of the proceedings in the cauſe. This court may iſſue proceſs throughout the ſtate, to compel the attendance of witneſſes. Appeals may be made from a Regiſter's Court to the Supreme Court, whoſe deciſions ſhall be final. In caſes where a Regiſter is intereſted in queſtions concerning the probate of wills, the granting letters of adminiſtration, or executors, adminiſtrators, or guardians accounts, the cognizance thereof ſhall belong to the Orphans Court, with an appeal to the Sepreme Court, whoſe deciſion ſhall be final.

Of proceſs bail, &c.

SECT. 18. The Prothonotaries of the Court of Common Pleas may iſſue proceſs as heretofore, take recognizances of bail, and ſign confeſſions of judgment; and the Clerks of the Supreme Court ſhall have the like powers. No judgment in the Supreme Court or Court of Common Pleas held for one county, ſhall bind lands or tenements in another, until a *Teſtatum Fieri Facias* being iſſued, ſhall be entered of record in the office of the Prothonotary of the county wherein the lands or tenements are ſituated.

Of judgments.

Of the Court of General Quarter Seſſions.

SECT. 19. The Judges of the Court of Common Pleas ſhall, by virtue of their offices, compoſe the Courts of General Quarter Seſſions of the Peace and Gaol Delivery within the ſeveral counties. Any two of the ſaid judges ſhall be a quorum.

Of juſtices of the peace.

SECT. 20. The Governor ſhall appoint a competent number of perſons to the office of Juſtice of the Peace, not exceeding twelve in each county, until two-thirds of both Houſes of the Legiſlature ſhall by law direct an addition to the number, who ſhall be commiſſioned for ſeven years, if ſo long they ſhall behave themſelves well; but may be removed by the Governor within that time on conviction of miſbehaviour in office, or on the addreſs of both Houſes of the Legiſlature.

Style of proceſs, &c.

SECT. 21. The ſtyle in all proceſs and public acts ſhall be, THE STATE OF DELAWARE. Proſecutions

ſhall

shall be carried on in the name of the state, and shall conclude *against the peace and dignity of the state.*

ARTICLE VII.

Of the high Court of Errors and Appeals.

SECTION 1. There shall be a court, styled, *The High Court of Errors and Appeals*, which shall consist of the Chancellor and of the Judges of the Supreme Court and Court of Common Pleas. Any four of the judges of this court may proceed on business; but any smaller number may open and adjourn the court. If any of them has rendered judgment or passed a decree in any cause before removal, he shall not sit judicially upon the hearing of the same in this court, but may assign the reasons upon which such judgment was rendered, or such decree passed. The Chancellor shall preside, except when he cannot sit judicially; and in such cases, or in his absence, the Chief Justice of the Supreme Court; but if he is so disqualified or absent, then the Chief Justice of the Court of Common Pleas shall preside; and if he is so disqualified or absent, then the next eldest Judge according to priority in date of commissions, if present, and not disqualified as aforesaid, shall preside. This court shall have power to issue writs of error to the Supreme Court, and to the Court of Common Pleas, and to receive and determine appeals from interlocutory or final orders or decrees of the Chancellor. Errors shall be assigned, and causes of appeal exhibited in writing speedily, and citations duly served on adverse parties.

SECT. 2. Upon the reversal of a judgment of the Supreme Court, or of the Court of Common Pleas, or a decree of the Chancellor, this court shall respectively render such judgment, or pass such decree, as the Supreme Court, or the Court of Common Pleas, or the Chancellor ought to have rendered or passed, except where the reversal is in favour of the plaintiff, or petitioner in the original suit, and the damages to be assessed, or the matters to be decreed, are uncertain: In any of which cases, the cause shall be remanded, in order to a final decision.

SECT. 3. The Judges of this court may issue all process

proceſs proper for bringing records fully before them, and for carrying their determinations into execution.

ARTICLE VIII.

Of conſervators of the peace.

SECTION 1. The members of the Senate and Houſe of Repreſentatives, the Chancellor, the Judges of the Supreme Court, and the Court of Common Pleas, and the Attorney General, ſhall by virtue of their offices, be conſervators of the peace throughout the ſtate; and the Treaſurer, Secretary, Clerks of the Supreme Court, Prothonotaries, Regiſters, Recorders, Sheriffs, and Coroners, ſhall, by virtue of their offices, be conſervators thereof, within the counties reſpectively in which they reſide.

Of the election of Repreſentatives in Congreſs.

SECT. 2. The Repreſentative, and when there ſhall be more than one, the Repreſentatives of the people of this ſtate in Congreſs, ſhall be voted for at the ſame places where Repreſentatives in the State Legiſlature are voted for, and in the ſame manner.

Of the appointment of State Treaſurer.

SECT. 3. The State Treaſurer ſhall be appointed annually by the Houſe of Repreſentatives with the concurrence of the Senate. No perſon, who hath ſerved in the office of State Treaſurer, ſhall be eligible to a ſeat in either Houſe of the Legiſlature, until he ſhall have made a final ſettlement of his accounts as Treaſurer, and diſcharged the balance, if any thereon due.

Of Sheriffs and Coroners.

SECT. 4. Two perſons for the office of Sheriff and two for the office of Coroner, ſhall be choſen by the citizens reſiding in each county, and having right to vote for Repreſentatives, at the time and places of election of Repreſentatives, one of whom for each office reſpectively, ſhall be appointed by the Governor. They ſhall hold their offices for three years, if ſo long they ſhall behave themſelves well, and until ſucceſſors be duly qualified; but no perſon ſhall be twice appointed Sheriff, upon election by the citizens, in any term of ſix years. The Governor ſhall fill vacancies in theſe offices by new appointments to continue unto the next general election, and until ſucceſſors ſhall be choſen and duly qualified. The

Legiſlature, two-thirds of each branch concurring, may when it ſhall be judged expedient, veſt the appointment of Sheriffs and Coroners in the Governor; but no perſon ſhall be twice appointed Sheriff in any term of ſix years.

Continuance of officers in office.

SECT. 5. The Attorney General, Clerks of the Supreme Court, Prothonotaries, Regiſters, Clerks of the Orphans Courts and of the Peace, ſhall reſpectively be commiſſioned for five years, if ſo long they ſhall behave themſelves well; but may be removed by the Governor within that time, on conviction of miſbehaviour in office, or on the addreſs of both Houſes of the Legiſlature. Prothonotaries, Clerks of the Supreme Court, of the Orphans Courts, Regiſters, Recorders, and Sheriffs, ſhall keep their offices in the town or place in each county, in which the Supreme Court and the Court of Common Pleas are uſually held.

Of the appointment of inferior officers.

SECT. 6. Attornies at law, all inferior officers in the treaſury department, election officers, officers relating to taxes, to the poor, and to high-ways, conſtables and hundred officers, ſhall be appointed in ſuch manner as is or may be directed by law.

Of ſalaries and fees.

SECT. 7. All ſalaries and fees annexed to offices ſhall be moderate; and no officer ſhall receive any fees whatever, without giving to the perſon who pays, a receipt for them, if required, therein ſpecifying every particular and the charge for it.

Of coſts.

SECT. 8. No coſts ſhall be paid by a perſon accuſed on a bill being returned ignoramus; nor on acquital by a jury, unleſs a majority of the judges preſent at the trial certify, that there was probable cauſe for the proſecution.

Of the rights of corporate bodies.

SECT. 9. The rights, privileges, immunities, and eſtates of religious ſocieties and corporate bodies, ſhall remain as if the conſtitution of this ſtate had not been altered. No clergyman or preacher of the

Excluſion of the clergy.

goſpel, of any denomination, ſhall be capable of holding any civil office in this ſtate, or of being a member of either branch of the Legiſlature, while he continues in the exerciſe of the paſtoral or clerical functions.

Of the laws in force.

SECT. 10. All the laws of this ſtate, exiſting at the

the time of making this conſtitution, and not inconſiſtent with it, ſhall remain in force, unleſs they ſhall be altered by future laws; and all actions and proſecutions now pending, ſhall proceed as if this conſtitution had not been made.

SECT. 11. This conſtitution ſhall be prefixed to every edition of the laws made by direction of the Legiſlature.

SECT. 12. The Legiſlature ſhall, as ſoon as conveniently may be, provide by law, for aſcertaining what ſtatutes, and parts of ſtatutes, ſhall continue to be in force within this ſtate; for reducing them, and all acts of the General Aſſembly, into ſuch order, and publiſhing them in ſuch manner, that thereby the knowledge of them may be generally diffuſed; for chooſing inſpectors and judges of elections, and regulating the ſame in ſuch manner, as ſhall moſt effectually guard the rights of the citizens entitled to vote; for better ſecuring perſonal liberty, and eaſily and ſpeedily redreſſing all wrongful reſtraints thereof; for more certainly obtaining returns of impartial juries; for dividing lands and tenaments in ſales by Sheriffs, where they will bear a diviſion, into as many parcels as may be without ſpoiling the whole, and for advertiſing and making the ſales in ſuch manner, and at ſuch times, and places, as may render them moſt beneficial to all perſons concerned; and for eſtabliſhing ſchools, and promoting arts and ſciences.

Special duties aſſigned to the Legiſlature.

ARTICLE IX.

Members of the General Aſſembly, and all officers executive and judicial, ſhall be bound by oath or affirmation, to ſupport the conſtitution of this ſtate, and to perform the duties of their reſpective offices with fidelity.

Of the political teſt and oath of office.

ARTICLE X.

The General Aſſembly, whenever two-thirds of each Houſe ſhall deem it neceſſary, may with the approbation

Of amendments to this conſtitution.

probation of the Governor, propoſe amendments to this conſtitution, and at leaſt three, and not more than ſix months before the next general election of Repreſentatives, duly publiſh them in print for the conſideration of the people; and if three-fourths of each branch of the Legiſlature ſhall after ſuch an election, and before another, ratify the ſaid amendments, they ſhall be valid to all intents and purpoſes, as parts of this conſtitution. No Convention ſhall be called but by the authority of the people; and an unexceptionable mode of making their ſenſe known, will be for them at a general election of Repreſentatives, to vote alſo by ballot *for* or *againſt* a Convention, as they ſhall ſeverally chooſe to do; and if thereupon it ſhall appear, that a majority of all the citizens in the ſtate having right to vote for Repreſentatives, have voted for a Convention, the General Aſſembly ſhall accordingly at their next ſeſſions call a Convention, to conſiſt of at leaſt as many members as there are in both Houſes of the Legiſlature, to be choſen in the ſame manner, at the ſame places, and at the ſame time that Repreſentatives are, by the citizens entitled to vote for Repreſentatives, on due notice given for one month, and to meet within three months after they ſhall be elected.

Of calling a Convention.

SCHEDULE.

SCHEDULE.

THAT no inconveniencies may ariſe from the alterations of the Conſtitution of this State, and in order to carry the ſame into complete operation, it is hereby declared and ordained:

I. That the Preſident, or in caſe of his death, inability, or abſence from the ſtate, the Speaker of the Legiſlative council at that time, and in caſe of his death, inability, or abſence from the ſtate, the Speaker of the Houſe of Aſſembly at that time, ſhall reſpectively, with the Privy Council, exerciſe the Executive Authority of this ſtate until the third Tueſday in January next. If the death, inability, or abſence of the Preſident, ſhall happen after the firſt Tueſday of next October, and before the firſt Tueſday in next January, then the Executive Authority ſhall devolve upon the perſon who was Speaker of the Council at the next preceding ſeſſion of the General Aſſembly; and in caſe of his death, inability, or abſence, upon the perſon who was Speaker of the Houſe of Aſſembly at the ſaid next preceding ſeſſion. Proviſion for the exerciſe of the Executive Authority.

II. That all perſons holding offices to which, under this conſtitution, appointments are to be made by the Governor, ſhall continue in the exerciſe of the duties of their reſpective offices until the firſt Tueſday of October, one thouſand ſeven hundred and ninety-three, unleſs their commiſſions ſhall ſooner expire by their own limitations, or the ſaid offices ſhall become vacant by death or reſignation, and no longer, unleſs re-appointed and commiſſioned by the Governor. Continuance of officers, and

III. That juſtice ſhall be adminiſtered in the ſeveral counties of this ſtate, until the period laſt mentioned, by the ſame juſtices, in the ſame courts, and in the ſame manner as heretofore. Adminiſtration of juſtice, pro tempore.

IV. That the Sheriffs elected at October next ſhall hold Election of Sheriffs.

hold their reſpective commiſſions two years, and no longer, from that time, or until new Sheriffs are elected and appointed; and ſuch perſons ſhall not be again eligible until the expiration of three years after their commiſſions ceaſe.

Governor, Senators and Repreſentatives.

V. That the elections of Governor, Senators, and Repreſentatives, ſhall be conducted by the ſame perſons, and in the ſame manner, as is preſcribed by the election laws of this ſtate, concerning the election of members of the Council and of the Houſe of Aſſembly; and the returns thereof ſhall be made reſpectively to the perſon exerciſing the Executive Authority, to the Senate, and to the Houſe of Repreſentatives.

VI. The firſt meeting of the Legiſlature under this Conſtitution ſhall be at the town of Dover.

Done, in Convention, the Twelfth day of June, in the Year of our Lord One Thouſand Seven Hundred and Ninety Two, and of the Independence of the United States of America, the Sixteenth. In Teſtimony whereof, we have hereunto ſubſcribed our Names.

THOMAS MONTGOMERY, Preſident.

John Dickinſon,
Robert Armſtrong,
Edward Roche,
William Johnſon,
Robert Haughey,
George Monro,
Robert Coram,
Kenſey Johns,
Nicholas Ridgely,
John Clayton,
Thomas White,
Manlove Emerſon,
James Morris,
Richard Baſſett,
Benjamin Dill,
Henry Molliſton,
Andrew Barratt,
Iſaac Cooper,
George Mitchell,
John W. Batſon,
Rhoads Shankland,
Iſaac Beauchamp,
Daniel Polk.

(ATTEST.)

JAMES BOOTH, Secretary.

LAWS

LAWS

OF THE

State of Delaware.

AT A GENERAL ASSEMBLY, BEGUN AT *NEW-CASTLE*, THE FOURTEENTH DAY OF OCTOBER, AND CONTINUED BY ADJOURNMENT UNTIL THE TWENTY-SEVENTH DAY OF NOVEMBER, IN THE TWELFTH YEAR OF THE REIGN OF KING WILLIAM, AND IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED, ON WHICH DAY THE FOLLOWING ACTS WERE PASSED BY WILLIAM PENN, esq; PROPRIETARY AND GOVERNOR IN CHIEF OF THE PROVINCE OF PENNSYLVANIA AND TERRITORIES, &c. THAT IS TO SAY,

CHAP. I. a.

CHAP. I. 1700.

An ACT *for the ſitting of the Orphans Court.*
Supplied. See after chap. xxx. a.

CHAP. II. a.

An ACT *againſt buying land of the natives*

BE *it enacted by the Proprietary and Governor, by and with the advice and conſent of the freemen of this province and territories, in General Aſſembly met, and by the authority of the ſame,* That if any perſon ſhall preſume to buy any land of the natives, within the limits of this province and territories, without leave from the proprietary thereof, every ſuch bargain and purchaſe ſhall be void and of none effect. CHAP.

CHAP. III. 1700.

CHAP. III. a.

An ACT *about the recording of deeds*, Repealed. See after, in chap. xi---and the act there, after repealed by the act of 15 Geo. II. chap. lxxxiii. a. ſect. 13.

CHAP. IV. a.

An ACT *about binding to the peace.*

One juſtice may bind to peace.

BE *it enacted*, &c. That whoſoever ſhall threaten the perſon of another, to wound, kill or deſtroy him, or do him any harm in perſon or eſtate, and the perſon ſo threatened ſhall appear before a juſtice of the peace, and atteſt, that he believes that by ſuch threatning he is in danger to be hurt in body or eſtate; ſuch perſon ſo threatening as aforeſaid, ſhall be bound over, with one ſufficient ſurety, to appear at the next ſeſſions or county court, to be holden for the county where ſuch offence was committed, to be proceeded againſt according to law; and, in the mean time, to be of his good behaviour, and keep peace towards all the king's ſubjects.

CHAP. V. a.

An ACT *for naturalization.*

Preamble.

FORASMUCH as the juſt encouragement of the inhabitants of this province and territories, is likely to be an effectual way for the improvement thereof; and ſince ſome of the people that live therein, and are likely to come thereinto, are foreigners, and not freemen, according to the acceptation of the laws of England, the conſequences of which may prove very detrimental to them in their eſtates and traffic, and injurious to the proſperity of this province and territories:

SECTION

CHAP. III.

1700.

SECTION 1. *BE it therefore enacted by the Proprietary and Governor, by and with the advice and conſent of the freemen of the ſaid province and territories, in General Aſſembly met, and by the authority of the ſame,* That it ſhall and may be lawful for the Proprietary and Governor, and his heirs, or his or their Lieutenant and Governor for the time being, by a public inſtrument under his or their broad ſeal, to declare any alien, aliens or foreigners, being already ſettled or inhabiting within this government, or that ſhall hereafter come to ſettle, plant, or reſide therein, having firſt made and given his or their ſolemn engagement or declaration to be true and faithful to the King as Sovereign, and to the Proprietary and Governor of this province and territories, according to the laws and uſages thereof, before the Governor for the time being, to be to all intents and purpoſes fully and completely naturalized, and the perſons ſo approved of and named in ſuch inſtrument or inſtruments as aforeſaid, ſhall, by virtue of this act, have and enjoy to them and their heirs the ſame rights and immunities of and unto the laws and privileges of this government, as fully and amply as any other of the King's natural born ſubjects have or enjoy within the ſame, any former law, act, ordinance, cuſtom or uſage to the contrary in any wiſe notwithſtanding.

Governor may grant an inſtrument of naturalization.

SECT. 2. And to the end ſuch letters or inſtruments under the broad ſeal of this province, as aforeſaid, may be obtained without any great difficulty or charge, *Be it further enacted,* That the Governor ſhall have and receive for the ſame, Twenty Shillings from every perſon already ſettled and reſiding within this government that ſhall take out ſuch inſtrument, and Thirty Shillings from every alien or foreigner that ſhall come to ſettle under this government, and no more; and the Secretary ſhall have Six Shillings, and the keeper of the great ſeal Six Shillings, for each and every ſuch public inſtrument, granted as aforeſaid.

Governor's fee for naturaliſation.

SECT. 3. *Provided* that nothing in this act contained ſhall be conſtrued to enable or give power or privilege to any foreigner to do or execute any matter or thing which by any act of Parliament in England, concerning the King's plantations, he is diſabled to do or execute.

CHAP. V. 1700.

Former foreign inhabitants all naturalized.

SECT. 4. *Provided always, and be it further enacted by the authority aforeſaid,* That all Swedes, Dutch, and other foreigners, who were ſettled in this province or territories before the date of the King's letters patents to the Proprietary and Governor, ſhall be deemed, and by this act are declared, to be fully and completely naturalized, and ſhall by virtue thereof have and enjoy to them and their heirs the ſame rights and immunities of and unto the laws and privileges of this government, as any other foreigners may or can enjoy by virtue of this act, any thing herein to the contrary notwithſtanding. *(a)*

CHAP. VI. a.

An ACT *for aſcertaining the deſcent of lands, and better diſpoſition of the eſtate of perſons dying inteſtate.* Repealed, and ſupplied by an act with a ſimilar title, paſſed in 1706. See after chap. 15. a.

CHAP. VII. a.

An ACT *confirming deviſes of lands, and validity of nuncupative wills.* Repealed by Queen Ann, in council, 7th February, 1705, re-enacted with ſome alterations. See after chap. 18. a. See appendix.

CHAP. VIII. a.

An ACT *impowering widows and adminiſtrators to ſell ſo much of the lands of inteſtates as may be ſufficient to clear their debts.* Repealed. See this act in the appendix.

CHAP. IX. a.

An ACT *for taking lands in execution for payment of debts.* See appendix.

CHAP.

(a) See a ſupplementary act hereto paſſed the 11th June, 1788. chap. 174. b.

CHAP. X. a.

CHAP. X.

1700.

An ACT *for the effectual eſtabliſhment and confirmation of the freeholders of this province and territories, their heirs and aſſigns, in their lands and tenements.* See appendix.

CHAP. XI. a.

An ACT *about acknowledging and recording deeds.* Repealed.

CHAP. XII. a.

1704.

An ACT *about ſeven years poſſeſſion.*

BE *it enacted by the honorable John Evans, eſq. (a) with her Majeſty's royal approbation Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That ſeven years quiet poſſeſſion of lands within this her Majeſty's government, ſhall give an unqueſtionable title to the poſſeſſor thereof, except in caſes of infants, married women, lunatics, and perſons beyond the ſeas.

Provided nevertheleſs, That this act ſhall in no wiſe extend to perſons who ſhall poſſeſs any eſtate for years, life, or entail. *(b)* CHAP.

(a) John Evans, eſq. began his government in February, 1703—4. and continued until February, 1708—9.

(b) See after, in the act of the 7 George II. chap. 60. a. ſect. 4. A recital of this act and its uſe.

CHAP. XIII.

CHAP. XIII. a.

An ACT *about Attornies and Solicitors.*

Preamble.

FOR preventing abuſes and irregularities in all and every the courts within this her Majeſty's government, and that all Attornies and Solicitors practiſing therein may be duly qualified to execute and perform the truſt in them repoſed:

Qualifications of an Attorney or Solicitor.

SECTION 1. *BE it enacted by the honorable John Evans, eſq. with her Majeſty's royal approbation Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That before any Attorney, Solicitor, or other perſon whatſoever, ſhall be admitted to plead for any reward or fee in any of the courts of this her Majeſty's government, ſuch Attorney, Solicitor, or other perſon as aforeſaid, ſhall take the oaths, and repeat and ſubſcribe the declaration preſcribed by act of Parliament in England; *(a)* and ſhall take the oath hereafter mentioned, *(b)* viz. *You ſhall do no falſehood or deceit, nor conſent to any to be done, in this court, to your knowledge; and if you know of any to be done, you ſhall give knowledge thereof to the Chief Juſtice, or any other the juſtices of this court, that it may be reformed: You ſhall delay no man for lucre or malice, having reaſonable fees firſt allowed you for the ſame: You ſhall plead no foreign plea, nor ſue any foreign ſuits, unlawfully, to the hurt of any man, but ſuch as ſhall (according to your judgment) ſtand with the order of the law and your own conſcience: You ſhall not wittingly or willingly ſue, or procure to be ſued, any falſe ſuits, nor give aid or conſent to the ſame, on pain of being expulſed from this court for ever. And further, You ſhall truly uſe and demean yourſelf in the office of an attorney within this court, according to your learning and diſcretion.*

SO HELP YOU GOD.

SECT.

(a) This proviſion repealed in chap. 2. b, ſect. 26. February 22, 1777. ſupplied in the conſtitution of June, 1792, article ix.

(b) See after, in chap. 54. ſect. 26, 27. other qualifications preſcribed.

CHAP. III.

Attorney General to be fined for neglect of duty.

SECT. 2. *And be it further enacted by the authority aforesaid*, That in case the Attorney General shall not duly attend to do and perform his duty at every quarter sessions, or other general court or courts, in all and every, or any of the respective counties, within this government, wherein her Majesty's business is depending, or her interest therein concerned; and in which, by law or custom, he ought to attend, or shall neglect to appoint a sufficient deputy in such his absence to be allowed and approved of by the court, he shall be fined at the discretion of such court wherein he shall so neglect his duty as aforesaid, in any sum not exceeding Five Pounds: And in case of his neglect, refusal, or delay, as aforesaid, the Judges or Justices of such respective court as aforesaid, shall have power, and are hereby impowered, to appoint any other person, or persons, to prosecute and perform such business then depending, in the absence of such Attorney General as aforesaid, any law, custom or usage to the contrary thereof in any wise notwithstanding.

CHAP. XIV. a.

An ACT *for regulating weights and measures.*

Standard of weights and measures to be provided.

SECTION 1. BE *it enacted by the honorable John Evans, esq. with her Majesty's royal approbation Lieutenant Governor of the counties of New-Castle, Kent, and Sussex, upon Delaware, and province of Pennsylvania, by and with the advice and consent of the freemen of the said counties, in General Assembly met, and by the authority of the same*, That in each county of this her Majesty's government, there shall be had and obtained within two years after the making of this law, at the charge of each county, to be paid out of the county levies, standards of brass for weights and measures, according to the Queen's standards for the exchequer; which standards shall remain with such officer in the counties aforesaid, as shall be from time to time appointed by the county court in each respective county of this government: And every weight, according

CHAP. XV.

Weights and measures to be marked.

according to its ſtandard, and every meaſure, as buſhel, half buſhel, pecks, gallons, pottles, quarts and pints, ſhall be made juſt weights and meaſures, and marked by him that ſhall keep the ſtandards; and that no perſon within this government ſhall preſume to buy or ſell by any weights or meaſures not ſealed or marked in form aforeſaid, and made juſt according to the ſtandards aforeſaid, by the officer in whoſe poſſeſſion the ſtandards remain, on penalty of forfeiting

Penalty.

Five Shillings to the proſecutor, being convicted by one Juſtice of the Peace of the unjuſtneſs of his weights and meaſures; and that once a year at leaſt, the ſaid officer, with the Grand Jury, or the major part of them, and, for want of a Grand Jury, with ſuch as ſhall be appointed and allowed by the reſpective county courts aforeſaid for aſſiſtants, ſhall try

Weights, &c. to be tried once a year.

the weights and meaſures in the counties aforeſaid; and thoſe weights or meaſures which are defective, ſhall be ſeized by the ſaid officer and aſſiſtants; which

Officer's fees.

ſaid officer for his fees, for his making each buſhel, half buſhel and peck, juſt meaſure, and marking the ſame that is large enough when brought to his hands, ſhall have Ten Pence, and for every leſs meaſure Three Pence, for every yard Three Pence, for every hundred and half hundred weight being made juſt and marked, Three Pence, for every leſs weight One Penny, and if the weights and meaſures be made juſt before they be brought to him, then to have but half the fees aforeſaid, for marking the ſame. And if the ſaid officer ſhall refuſe to do any thing that is enjoined by this law, for the fees appointed, and be duly convicted thereof, ſhall forfeit Five Pounds, to the uſe of the Governor for the time being. That a true meaſure

Standard half buſhel to be procured from Philadelphia,

or ſtandard be taken from the braſs half buſhel in the town of Philadelphia, and buſhel and a peck proportionable; and all leſs meaſures and weights coming from England, being duly ſealed in London, or other meaſures agreeable therewith, ſhall be accounted and allowed to be good by the aforeſaid officers, until the ſaid ſtandards ſhall be had and obtained.

Beer to be ſold by beer meaſure.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That no perſon ſhall ſell beer or ale by retail but by beer meaſure, according to the ſtandard of England.

CHAP.

CHAP. XV. a.

An ACT *for aſcertaining the deſcent of lands, and better diſpoſition of the eſtate of perſons dying inteſtate.* Repealed, and ſupplied by an act, intituled, an act for the better ſettling inteſtates eſtates, paſſed in October, 1721. See after chap. 31. a. See appendix.

CHAP. XVI. a.

An ACT *for preventing clandeſtine marriages.* Repealed by an act, intituled, an act to regulate marriages, paſſed June 11. 1788. chap. 176. b. and that repeal continued by an act with a ſimilar title, paſſed January 29, 1790, chap. 211. b.

CHAP. XVII. a

An ACT *for keeping a regiſtry in religious ſocieties.*

BE *it enacted by the honorable John Evans, eſq. by and with her Majeſty's royal approbation Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That the regiſtry now kept, or which ſhall hereafter be kept by any religious ſociety in their reſpective meeting book, or books, of any marriage, birth, or burial, within this her Majeſty's government, ſhall be held good and authentic, and ſhall be allowed of upon all occaſions whatſoever. *(a)*

CHAP.

(a) By an act regulating marriages, paſſed January 29, 1790. chap. 211. b. Miniſters &c. ſolemnizing marriages are to keep regiſters of the ſame.

CHAP. XVIII.

1706.

CHAP. XVIII. a.

An ACT *confirming deviſes of lands, and the validity of nuncupative wills.* Repealed by an act, intituled, an act concerning written and nuncupative wills, paſſed 30th of October, 1753. 27. Geo. II. chap. 145. a. See appendix.

CHAP. XIX. a.

An ACT *obliging the officers of this government to give ſecurity.*

Preamble.

NOTHING being more juſt nor reaſonable, than that thoſe, who by virtue of any public office in this government enjoy profit and truſt, ſhould for the reſpective offices to the reſpective counties give good and lawful ſecurity:

Officers to give ſecurity to the Juſtices, &c.

SECTION 1. *BE it therefore enacted by the honourable Charles Gookin, eſq. (a) by and with her Majeſty's royal approbation Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the freemen in Aſſembly met, and by the authority of the ſame,* That all perſon and perſons who, by virtue of any commiſſion, poſſeſs and enjoy any poſt or office of profit or truſt within this her Majeſty's government, ſhall at the next quarter ſeſſions within their reſpective counties, after publication hereof, give ſecurity to the Juſtices of the Peace for the time being, or to the Treaſurer of the ſaid county, for their reſpective offices; and that all perſon or perſons who ſhall hereafter hold or enjoy any poſt of profit or truſt, ſhall at the next quarter ſeſſions to be held for their reſpective counties, after the receipt of his or their commiſſion, give to the Juſtices of the Peace, or to the Treaſurer

(a) Charles Gookin, eſq. began his government in February, 1708—9, and continued till May 31, 1717.

CHAP. XIX.

Treaſurer of the ſaid county, ſecurity as above-ſaid; *(a)* and any perſon or perſons in any poſt or commiſſion, refuſing to give ſecurity as above ordained, ſhall for ſuch contempt forfeit his ſaid poſt or office, and is hereby debarred from enjoying and poſſeſſing the ſame, or any other poſt, within this government, for the ſpace of three years.

On penalty of forfeiting their offices; &c.

SECT. 2. *Provided always, and it is hereby enacted,* That the Juſtices of the Peace, or Treaſurer for the reſpective counties, to whom the ſaid ſecurities ſhall be given, ſhall not, nor are hereby impowered, to take more than Five Hundred Pounds current money, nor leſs than Three Hundred Pounds money aforeſaid, for any of the ſaid officers ſecurity, which ſhall be by recognizance with one good ſurety.

Security not to exceed 500 l. nor be leſs than 300 l.

SECT. 3. *Provided always,* That all officers within this government, who have already given ſecurity, are not comprehended within this act.

SECT. 4. *Provided alſo,* That nothing in this act mentioned, ſhall extend to any other officers, except Regiſter, Recorder, Clerk, Treaſurer, and High Sheriff. *(b)*

What officers are to give ſecurity.

CHAP. XX. a.

An ACT *aſcertaining the North and Weſt bounds of the county of New-Caſtle.*

WHEREAS ſeveral inhabitants of this county have, by the pretence of a circular line run to adjuſt the twelve miles of the county of New-Caſtle,

Preamble.

(a) See after in the "Act for eſtabliſhing Orphans Courts," paſſed in 1721, chap. 80. a. ſect. 12. It is declared for whoſe uſe ſuch ſecurities ſhall be, and the manner in which ſuits thereon ſhall be proceeded in.

(b) For other proviſions as to the Recorder, ſee after in chap. 83. a. ſect. 12: and as to the Treaſurer in chap. 102. a. ſect. 12. and in chap. 13. a. The foregoing act ſo far as it relates to the ſecurities to be given by Sheriffs, was firſt repealed by "An act for the obliging Sheriffs within this government to give ſufficient ſecurities for the faithful execution of their truſt," paſſed, October 31, 1767, 7 George III. chap. 189; and that repeal continued by "An act directing the manner "and form of ſecurities to be given by Sheriffs for the due execution of their truſt, "and preſcribing a time for their returns on writs of fieri facias," paſſed June

CHAP. XX.

ſeparated and withdrawn themſelves from the duties, offices, and taxes of this county; and have, by virtue of running of the ſaid line, for which there was neither warrant nor law, aſſociated to, and done the duty of, the neighbouring county, to the great damage of the county of New-Caſtle: For further prevention of like practice,

SECTION 1. *BE it enacted by the honourable Charles Gookin, eſq. by and with her Majeſty's royal approbation Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, and by and with the advice and conſent of the Repreſentatives of this government, in General Aſſembly met, and by the authority of the ſame,* That no perſon or perſons whatſoever, living or inhabiting within the bounds which were accounted the bounds of the county of New-Caſtle at and before any diviſion made by virtue of ſaid line, or any perſon, or perſons, whoſe name or names ſtand inrolled as taxables of the county of New-Caſtle, and living within the limits of the ſaid county, ſhall, under pretence of the ſaid diviſion line, refuſe, deny, or neglect, to act in every part as a member of the ſaid county.

SECT. 2. *And* all Sheriffs, Conſtables, and other officers, are hereby impowered to ſummons, ſeize, or apprehend, the perſons living as above-ſaid, as well as any other member of this county, for ſuch reaſons as others may be ſeized or taken; and in caſe of any refuſal, denial, or neglect of the ſaid inhabitants, under any pretence whatſoever (except what ſhall be allowed by the Juſtices of the county of New-Caſtle, in open court ſitting) then either to apprehend the delinquents, or diſtrain on their goods, as the law for other delinquents of this government, directs.

CHAP.

11, 1788. chap. 178. See alſo "An act requiring Sheriffs to give ſecurity," paſſed June 17, 1793. chap. 32. c.

CHAP. XXI. a.

CHAP. XXI.

An ACT *for annual elections of Coroners and Sheriffs, within this government.*

Preamble.

WHEREAS by virtue of a charter of privileges, granted by the honourable William Penn, esq. Proprietary and Governor of the counties of New-Castle, Kent, and Sussex, on Delaware, and province of Pennsylvania, amongst other privileges there granted, a triennial election of Sheriffs for this government, is one; *And whereas*, for the better regulation of this government, the Representatives, in Assembly met, have power by the said charter to alter any clause thereof;

Election of Sheriffs and Coroners appointed.

SECTION 1. *BE it therefore enacted, by the honourable Charles Gookin, esq. by and with her Majesty's royal approbation, Lieutenaut Governor of the counties of New-Castle, Kent, and Sussex, on Delaware, and province of Pennsylvania, by and with the consent and advice of the Representatives of this government, in Assembly met, and by the authority of the same*, That there shall be yearly, and every year, on the first day of October, after the choice of the Representatives of each county, an election for Coroners and Sheriffs; *(a)* and that two persons for each of the offices, in each county, shall be chose, of whom the Governor in six days after such choice, shall nominate one to officiate in each office. And in case the Governor does not nominate in the time aforesaid, then the person first chose by the country, to act in the said offices as fully, to all intents and purposes, as if nominated and commissioned.

SECT. 2. *And be it further enacted by the authority aforesaid*, That if any person chose to be a Representative in Assembly, shall on the same day be chose to act in any of the above-said offices, it shall and may be lawful, and is hereby declared to be in the power of the said party which of the said choices he will approve,

(a) By the constitution of the State of Delaware, ratified in Convention of the said state, June 12, 1792, in article 2, sect. 2, 3, and in article 8, sect. 4. The first Tuesday in October, in each year thereafter, is the time appointed for holding such election.

CHAP. XXI.

prove, any law, uſuage, or cuſtom, to the contrary notwithſtanding. *Provided always*, That ſuch nomination or commiſſion be in nine days entered in writing in the Prothonotary's office of each reſpective county of this government. *(b)*

1719. CHAP. XXII. a.

An ACT *for the advancement of Juſtice, and more certain adminiſtration thereof.*

WHEREAS the common law is juſtly eſteemed to be the birth-right of Engliſh ſubjects, and ought to be regarded in this government as the ſafeſt rule of our conduct; and whereas acts of Parliament have been adjudged not to extend to theſe plantations, except when they are particularly named in the body of ſuch acts; and foraſmuch as ſome perſons have been encouraged to tranſgreſs certain ſtatutes againſt capital crimes, and other enormities, becauſe thoſe ſtatutes have not been hitherto fully extended to this government; and alſo, that his Majeſty's good ſubjects, the inhabitants thereof, have not yet been ſo happy as to obtain the royal confirmation of any law for the better eſtabliſhment of their conſtitution and government: For the preventing therefore any failure for the future, in that behalf, may it pleaſe the Governor that it may be enacted.

Trial's of high treaſon.

SECTION 2. *And BE it enacted by William Keith, eſq. (a) by and with his Majeſty's approbation and appointment, Lieutenant, and Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That all inqueſts and trials of high treaſon ſhall be according to

(b) See after an act for regulating elections, &c. Anno. 1733, 7 George II. chap. 61. a. and divers after proviſions. And alſo, chap. 65. a. 13 George II. an act limiting the time of the Sheriffs's holding their offices and preventing bribery, &c. in their elections.

(a) William Keith, eſq. began his government May 31, 1717, and continued until June 22, 1726.

to due order and courſe of common law, obſerving the directions of the ſtatute-laws of Great Britain, relating to the trials, proceedings, and judgments in ſuch caſes.

Trial of petty treaſon, &c.

SECT. 3. *And be it further enacted*, That the enquiries and trials of all petty treaſons, miſpriſions of treaſons, murders, manſlaughters, homicides, and all ſuch other crimes and miſpriſions, as by this act, or any other act of Aſſembly of this government, are or ſhall be made capital, or felony of death, which have been or ſhall be done, committed, perpetrated, or happen within this government, ſhall be as by this act is directed. *(b)*

All crimes to be tried upon oath or affirmation.

SECT. 4. *And whereas* the ſeveral crimes declared by this act to be felonies of death, are by the courſe of the laws of that part of Great Britain called England, to be enquired of, and tried by juſtices, juries, and witneſſes upon their oaths; but foraſmuch as many of the inhabitants of this government are ſuch, who for conſcience ſake cannot take an oath in any caſe, yet, without their aſſiſtance, juſtice cannot be well adminiſtered, and too great a burthen will fall upon the other inhabitants; *Be it therefore enacted by the authority aforeſaid*, That all and all manner of crimes and offences, matters and cauſes whatſoever, to be enquired of, heard, tried and determined by virtue of this or any other law of this government, or otherwiſe, ſhall and may be enquired of, heard, tried and determined *(c)* by judges, juſtices, inqueſts, and witneſſes, qualifying themſelves according to their conſcientious perſuaſions reſpectively, either by taking a corporal oath, *(d)* or by taking the ſolemn affirmation allowed by act of Parliament to thoſe called Quakers in Great Britain; which affirmation of ſuch perſons as conſcientiouſly refuſe to take an oath, ſhall be accounted and deemed in the law to have the full effect of an oath, in any caſe whatſoever in this government. And that all ſuch perſons as ſhall be convicted of falſly and corruptly affirming or declaring any matter

Affirmation to have the effect of an oath.

Falſe affirmation to be puniſhed as perjury.

(b) See after a ſupplementary act hereto declaring more particularly the manner of trial and puniſhment of ſuch like crimes and offences, paſſed 15 Geo. II. chap. 84. a.

(c) See alſo chap. 50. c. *(d)* See after alſo in chap. 224, a. paſſed March 29, 1775. proviſions for taking an oath by holding up the right hand, &c.

CHAP. XXII. 1719.

ter or thing, which, if the ſame had been upon oath, would by law amount to wilful and corrupt perjury, ſhall incur the ſame penalties, forfeitures and diſabilities, as perſons convicted of wilful perjury do incur by the laws of Great Britain. And that upon all trials of the ſaid capital crimes, lawful challenges ſhall be allowed, and learned council aſſigned to the priſoners, and ſhall have proceſs to compel witneſſes to appear for them upon any of the ſaid trials; but before ſuch witneſſes ſhall be admitted to depoſe or give any manner of evidence, they ſhall firſt take an oath or affirmation to ſay the truth, the whole truth, and nothing but the truth, in ſuch manner as the witneſſes for the King are by the laws of this government obliged to do; and if convicted of any wilful perjury in ſuch evidence, ſhall ſuffer all the puniſhments, penalties, forfeitures and diſabilities, which by any of the laws and ſtatutes of Great Britain are or may be inflicted upon ſuch perſons convicted of wilful perjury. *(e)* But if any of the ſaid priſoners ſhall upon their arraignment for any of the ſaid crimes, ſtand mute, or not anſwer directly, or ſhall peremptorily challenge above the number of twenty perſons returned to ſerve of the jury, he or they ſo offending ſhall ſuffer as a felon convict, and ſhall loſe the benefit of the clergy, and of this act, in the ſame manner as he or they ſhould have done if they had been indicted, arraigned, and found guilty, if it appear to the juſtices, before whom ſuch felons be arraigned, by evidence given before them, or by examination, that the ſame felonies, whereon they are ſo arraigned, had been ſuch felonies, by reaſon whereof they ſhould have loſt the benefit of their clergy. And when any perſon or perſons ſhall be ſo, as aforeſaid, convicted or attainted of any of the ſaid crimes, they ſhall ſuffer as the laws of Great Britain now do or hereafter ſhall direct and require in ſuch caſes reſpectively. And it ſhall and may be lawful for the juſtices of the court, where any of the ſaid attainders or convictions ſhall happen, to give and pronounce ſuch judgment or ſentence againſt the perſons ſo attainted or convicted, as their crimes reſpectively

Challenges to be allowed to priſoners, &c.

Witneſſes convicted of perjury ſhall be puniſhed accordingly.

Perſons ſtanding mute, &c. ſuffer as felons convict, &c.

Juſtices to give judgment accordingly.

(e) See after in ſect. 26.

tively require, according to the manner, form and direction of the laws of that part of Great Britain called England, in the like cases, *(f)* and thereupon to award and order execution to be done accordingly.

Persons convict of Sodomy, &c. shall suffer as felons.

SECT. 5. *And be it further enacted by the authority aforesaid*, That if any person or persons shall commit sodomy, or buggery, or rape, or robbery, which robbery is done by assaulting another on or near the highway, putting in fear, and taking from his person money or other goods, to any value whatsoever; *(g)* he or they so offending, or committing any of the said crimes within this government, their counsellors, aiders, comforters and abettors being convicted thereof, as above-said, shall suffer as felons, according to the tenor, direction, form and effect of the several statutes in such cases respectively made and provided in Great Britain; any act or law of this government to the contrary in any wise notwithstanding.

Women concealing the death of their bastards to be deemed murderers.

SECT. 6. *And be it further enacted by the Authority aforesaid*, That if any woman shall be delivered of any issue of her body, male or female, which being born alive, should by the law be deemed a bastard, and that she endeavours privately, either by drowning, or secret burying thereof, or any other way, by herself, or the procuring of others, so to conceal the death thereof as it may not come to light, whether it were born alive or not, but be concealed; in every such case the mother so offending, being convicted thereof, according to the usual course of proceeding in capital crimes within this government, shall suffer death, as in case of murder, except such mother can make proof by one witness at the least, that the child, whose death was by her so intended to be concealed, was born dead. *(h)* And if any person or persons shall counsel, advise or direct such woman to kill the child she goes with, and, after she is delivered of such child, she kills it, every such person so advising or directing, shall

(f) As to petit treason, the same judgment to be as in any other felony of death, by an act passed June 5, 1787, chap. 158, b.

(g) So of bestiality. See after in chap. 84. a.

(h) This clause repealed by an act passed June 5, 1779. chap. 45. a. sect. 6.

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ſhall be deemed acceſſary to ſuch murder, and ſhall have the ſame puniſhment as the principal ſhall have.

The ſtatute againſt ſtabbing extended here.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That the ſtatute againſt ſtabbing, made in the firſt year of the reign of King James the firſt, chapter the eighth, intituled, "An act to take away the benefit of the clergy for ſome kind of manſlaughter;" ſhall be duly obſerved and put in execution in this government, and be of like force and effect as if the ſame act were here repeated and enacted: But that all ſuch perſons as ſhall happen to be preſent and aiding to the ſtabbing another, which by the ſaid act is made murder, ſhall not be deemed principals, but acceſſaries to ſuch ſtabbing.

Perſons convicted of cutting out or diſabling the tongue, &c. ſhall ſuffer as felons.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons on purpoſe, and of malice fore-thought, and by lying in wait, ſhall unlawfully cut out, or diſable the tongue, put out an eye, ſlit the noſe, cut off the noſe or lip, or cut off or diſable any limbs or members of any of the King's ſubjects, with intention in ſo doing to maim or disfigure in any of the manners before-mentioned, ſuch his Majeſty's ſubjects; that then and there in every ſuch caſe the perſon or perſons ſo offending, their counſellors, aiders and abetters, knowing of and privy to the offence as aforeſaid, ſhall ſuffer death, as in caſes of felony, without benefit of the clergy.

The ſtatute againſt conjuration, &c. extended.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That another ſtatute, made in the firſt year of the reign of King James the firſt, chapter the twelfth, intituled, "An act againſt conjuration, witchcraft, and dealing with evil and wicked ſpirits," ſhall be duly put in execution in this government, and of like force and effect, as if the ſame were here repeated and enacted. *(i)*

Burglary how to be puniſhed.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall be ſo, as aforeſaid, convict of burglary, which is a breaking and entering into the dwelling-houſe of another in the night time,

(i) This clauſe repealed by the ſaid act of June 5, 1779, chap. 45. b. ſect. 5; but in ſect. 4. proviſion made for puniſhing pretenders thereto.

time, with an intent to kill ſome reaſonable creature, or to commit ſome other felony within the ſame houſe, whether the felonious intent be executed or not, he or they ſo offending within this government, being convicted thereof as aforeſaid, ſhall ſuffer death, without benefit of clergy; any law of this government to the contrary notwithſtanding.

Burning of houſes.

SECT. 11. *And* if any perſon or perſons ſhall be ſo, as aforeſaid, convicted of maliciouſly and voluntarily burning the dwelling-houſe, barn, ſtable, or out-houſe of another, having corn or hay therein, he or they ſo offending within this government, ſhall ſuffer death; any law of this government to the contrary notwithſtanding.

Acceſſaries to capital crimes how to be proceeded againſt.

SECT. 12. *And be it further enacted by the authority aforeſaid*, That if any principal offender in any capital crime, which by the laws of this government for the time being is made felony of death, ſhall be convicted of any ſuch felony, or ſhall ſtand mute, or peremptorily challenge above the number of twenty perſons returned to ſerve of the jury; it ſhall and may be lawful to proceed againſt any acceſſary, either before or after the fact, in the ſame manner as if ſuch principal felon had been attainted thereof, notwithſtanding any ſuch principal felon ſhall be admitted to the benefit of his clergy, pardoned, or otherwiſe delivered, before attainder; and every ſuch acceſſary ſhall ſuffer the ſame puniſhment, if he or ſhe be convicted, or ſtand mute, or peremptorily challenge above the number of twenty perſons returned to ſerve of the jury, as he or ſhe ſhould have ſuffered if the principal had been attainted.

Perſons concealing robbers, burglars, &c. to be burnt in the hand.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall receive, harbour or conceal any of the ſaid robbers or burglars, felons or thieves, or ſhall receive or buy any goods or chattles that ſhall be feloniouſly taken or ſtolen by any ſuch robbers or burglars, felons or thieves, knowing the ſame to be ſtolen, *(k)* and being ſo, as aforeſaid, convicted of either of the ſaid offences;

(k) See in chap. 90. a. ſect. 9.

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if he or they pray to have the benefit of this act in lieu of clergy, judgment of death ſhall not be given againſt them upon ſuch conviction, nor execution awarded upon any outlawry for ſuch offence, but they ſhall be burnt in their hands, in manner as herein after directed.

Acceſſaries to be puniſhed by fine, &c. if the principal cannot be taken.

SECT. 14. *Provided always*, That if any ſuch principal robber or burglar, felon or thief, cannot be taken, ſo as to be proſecuted and convicted for any ſuch offence, nevertheleſs it ſhall be lawful to proſecute and puniſh every ſuch perſon and perſons, buying or receiving any goods ſtolen by any ſuch principal felon, knowing the ſame to be ſtolen, as for a miſdemeanor, to be puniſhed by fine and impriſonment, or other ſuch corporal puniſhment, as the court ſhall think fit to inflict, although the principal felon be not before convict of the ſaid felony; which puniſhment ſhall exempt the offender from being puniſhed as acceſſary, if ſuch principal felon ſhall be afterwards taken and convicted.

If perſons indicted do not appear, capias ſhall be awarded.

SECT. 15. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons who have been indicted or appealed, or hereafter ſhall be indicted or appealed for any of the ſaid crimes, did not, or will not appear to anſwer ſuch indictment or appeal, the juſtices before whom the ſame hath been, or ſhall be taken, ſhall award a writ, called *capias*, againſt every ſuch offender, directed to the Sheriff of the county where the party indicted or appealed are by ſuch indictment or appeal ſuppoſed to be converſant or inhabit, returnable before the juſtices of that court, where ſuch party is or ſhall be ſo indicted or appealed at the Supreme or Provincial Court next after the taking ſuch indictment or appeal; by which writ of *capias* the ſame Sheriff ſhall be commanded to take the body of him or them ſo indicted or appealed, if he or they can be found in his bailiwick; and if he or they cannot be found, the Sheriff ſhall make proclamation in every Court of Quarter Seſſions, which ſhall be held for the ſaid county where the ſaid party indicted or appealed is ſuppoſed to inhabit or be converſant as aforeſaid; That he or they, being ſo indicted or appealed, ſhall appear before the ſaid Juſtices at the ſaid

The Sheriff to make proclamation,

That the offender appear, &c.

Supreme

Supreme Court, on the day of the return of the ſaid writ of *capias*, to anſwer our Lord the King, or to the party, of the treaſon, felony or treſpaſs, whereof he or they are ſo indicted or appealed. Which writ ſhall be delivered to the ſaid Sheriff or Sheriffs three months before the return thereof; after which writ of *capias* ſo ſerved and returned, if he who is ſo indicted or appealed, comes not at the ſaid day of return of the ſaid *capias*, and yield his body to the Sheriff, he ſhall be by the Juſtices of the ſaid Supreme Court pronounced outlawed and attainted of the crime, whereof he is ſo indicted or appealed as aforeſaid; and from that time ſhall forfeit and loſe all his lands and tenements, goods and chattles. Which forfeiture, and all other forfeitures expreſſed or implied by the judgments to be given upon the ſaid capital offences mentioned in this act, after ſuch criminals juſt debts, and the reaſonable charges of their maintenance in priſon, are deducted, ſhall go one half to the Governor for the time being,(*l*) towards ſupport of this government, and for defraying the charges of proſecution, trial, and execution of ſuch criminals; and the other half, or reſidue thereof, ſhall go to ſuch criminal's wife and children equally: But if he leaves no wife or children, then to the next of his kindred, not deſcending lower than the ſecond degree, to be claimed within three years after the death of ſuch criminals; otherwiſe the ſame ſhall go to the Governor, as aforeſaid; any law or uſage to the contrary notwithſtanding.

Forfeitures.

SECT. 16. *Provided always, and be it further enacted*, That where any perſon or perſons charged, committed to priſon, or convicted of any of the ſaid capital crimes, being juſtly indebted to any other perſon or perſons; he or they ſo indebted may be arreſted, or their goods and chattles attached, to anſwer the ſuits of their reſpective creditors; who, making due proof that the debts or ſums demanded are really and without fraud due, ſhall recover judgment for the ſame, and executions may be awarded againſt the lands, goods,

Criminals to anſwer for their debts.

(*l*) This moiety to go to the uſe of the ſtate by the act paſſed February 22, 1777, chap. 6, ſect. 5.

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goods and chattles of ſuch defendants, as is uſual in other caſes.

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Breakers of priſons.

SECT. 17. *Provided alſo*, That he or they who ſhall happen to break priſon, ſhall not have judgment of life or member for breaking of priſon only; except the cauſe for which he or they were taken and impriſoned, did require ſuch judgment, had he been convict according to law.

Such as by law have benefit of clergy, to have the benefit of this act,

SECT. 18. *And be it further enacted by the authority aforeſaid*, That if any perſon be convicted of any ſuch felony as is hereby made capital, for which he ought by the laws of Great Britain to have the benefit of his clergy, and ſhall pray to have the benefit of this act; he ſhall not be required to read, but without any reading ſhall be allowed, taken and reputed to be, and puniſhed as a clerk convict, and burnt, if for murder, with an M upon the brawn of the left thumb, and if for any other felony, with a T in the ſame place of the thumb; which marks are to be made by the Goaler in open court, as is uſual in Great Britain; which ſhall be effectual to all intents and purpoſes, and be as advantageous to him, as if he had read as a clerk; any law or uſage to the contrary notwithſtanding.

and without reading be as clerks convict, and burnt in the hand.

Juſtices may commit them to ſome houſe of correction, &c.

SECT. 19. *And* that the ſaid juſtices, before whom ſuch offender or offenders ſhall be tried and convicted, ſhall alſo at their diſcretion award and give judgment, that ſuch offender and offenders ſhall be committed to ſome houſe of correction, or public work-houſe, *(m)* within the county, hundred or place, where ſuch conviction ſhall be, there to remain, and be kept without bail or mainprize for ſuch time as ſuch juſtices ſhall then judge and award, not leſs than ſix months, and not exceeding two years, to be accounted from the time of ſuch conviction, and an entry thereof ſhall be made of record, purſuant to ſuch judgment and award; and ſuch offender and offenders ſo judged and awarded to remain and be kept in ſuch houſe of correction or public work-houſe, ſhall be there

(m) The ſeveral priſons in the reſpective counties to be uſed as work-houſes until others be provided. See the act of 4 George II. chap. 58: Alſo chap. 146. a. paſſed October 30, 1753.

there ſet at work, and kept at hard labour, for and during ſuch time as ſhall be ſo adjudged and awarded: And in caſe ſuch perſon or perſons ſhall refuſe or neglect to work and labour, as they ought to do, the maſter or keeper of ſuch houſe of correction or public work-houſe reſpectively, is hereby required to give ſuch perſons ſuch due correction as ſhall be fit and neceſſary in that behalf.

If they eſcape, and be retaken, to be kept longer.

SECT. 20. *And be it further enacted by the authority aforeſaid*, That in caſe any ſuch offender or offenders ſhall, after ſuch judgment given, eſcape out of priſon, or out of ſuch public work-houſe or houſe of correction, as he, ſhe, or they, ſhall be committed unto, as aforeſaid; ſuch perſon or perſons being afterwards retaken, ſhall be brought before one or more of the Provincial Judges, or before two or more of the Juſtices of the Peace, of ſuch county, hundred or place, where ſuch offender or offenders ſhall be ſo retaken, which judge or juſtices are hereby required to commit ſuch offender and offenders to ſome houſe of correction, or public work-houſe, within ſuch county, hundred or place, where he, ſhe, or they, ſhall be ſo retaken, there to remain without bail or mainprize, for any time, not leſs than twelve months, and not exceeding four years, to be accounted from the time of ſuch retaking, and there be ſet at work, and kept at hard labour, and receive ſuch due correction as aforeſaid.

The maſter of ſuch houſe neglecting his duty ſhall be removed. See chap. 146. a. ſect. 6.

SECT. 21. *And* in caſe any maſter or keeper of any houſe of correction, or public work-houſe, ſhall neglect to do his duty, as above directed; any Judge or Juſtice of Goal Delivery, upon complaint, and due proof thereof, upon the oath or affirmation of one or more witneſſes to him made, ſhall be, and is hereby impowered to remove ſuch perſon from his ſaid office.

Women convicted of Felony, &c.

SECT. 22. *And be it further enacted by the authority aforeſaid*, That where a man being convicted of any felony for which he may demand the benefit of his clergy; if a woman be convicted for the ſame, or like offence, upon her prayer to have the benefit of this act, judgment of death ſhall not be given againſt her upon ſuch conviction, or execution, awarded upon any outlawry for ſuch offence, but ſhall

ſuffer

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ſuffer the ſame puniſhment as a man ſhould ſuffer, that has the benefit of his clergy allowed him in the like caſe, *That is to ſay*, Shall be burnt in the hand, in manner aforeſaid, and further to be kept in priſon for ſuch time as the juſtices in their diſcretion ſhall think fit, ſo as the ſame do not exceed one year.

No perſon to have the benefit of this act more than once.

SECT. 23. *But* if any man or woman, who have once had the benefit of this act, as aforeſaid, and ſhall be again convicted of any other felony, hereby made capital or felony of death, for which a man might have the benefit of his clergy; every ſuch man and woman ſhall be, and are hereby totally excluded from having any benefit or advantage of this act, but ſhall ſuffer pains of death, as in caſes where the benefit of clergy is by law taken away.

Felonies committed in one county, and acceſſaries in another, &c.

SECT. 24. *And be it further enacted by the authority aforeſaid*, That where any murder or felony hath been or hereafter ſhall be committed in one county of this government, and one or more perſons ſhall be acceſſary or acceſſaries to any ſuch murder or felony in another county; that then an indictment found or taken againſt any ſuch acceſſary or acceſſaries, upon the circumſtance of ſuch matters before Juſtices of the Peace, or other juſtices or commiſſioners to enquire of felonies in the county where ſuch offences of acceſſary or acceſſaries in any manner have been, or ſhall be committed or done, ſhall be as good and effectual in law, as if the ſaid principal offence had been committed or done within the ſame county where the indictment againſt ſuch acceſſary hath been, or ſhall be found.

Juſtices to certify, whether ſuch principal be convicted, &c.

SECT. 25. *And be it further enacted*, That the Juſtices of the ſaid Supreme Court, or two of them, upon ſuit to them made, ſhall write to the keepers of the records, where ſuch principal is or ſhall be hereafter attainted or convict, to certify them, whether ſuch principal be attainted, convicted, or otherwiſe diſcharged of ſuch principal felony; who upon ſuch writing to them, or any of them directed, ſhall make ſufficient certificate in writing, under their ſeal or ſeals, to the ſaid juſtices, whether ſuch principal be attainted, convicted, or otherwiſe diſcharged or not: And after they, who have the cuſtody of ſuch records,

cords, do certify that ſuch principal is attainted, convicted, or otherwiſe diſcharged of ſuch offence by the law; then the Juſtices of Goal Delivery, or Oyer and Terminer, ſhall proceed upon every ſuch acceſſary in the county where he or they became acceſſary, in ſuch manner and form as if both the ſaid principal offence and acceſſary had been committed and done in the ſame county where the offence of acceſſary was or ſhall be committed or done. *And* that every ſuch acceſſary, and other offenders above expreſſed, ſhall anſwer upon their arraignments, and receive ſuch trial, judgment, order and execution, and ſuffer ſuch forfeitures, pains and penalties, as is uſual in other caſes of felony; and as the ſtatute, made in the ſecond and third year of King Edward the ſixth, chapter the twenty-fourth, entituled, *An act for the trial of murders and felonies committed in ſeveral counties*, doth direct in ſuch caſes; which ſtatute ſhall be obſerved in this government, any law or uſage to the contrary notwithſtanding.

Acceſſaries how to be judged.

Sect. 26. *And be it further enacted by the authority aforeſaid*, That every perſon who ſhall unlawfully and corruptly procure any witneſs to commit wilful and corrupt perjury in any matter or cauſe depending in ſuit and variance in any of the Courts of Judicature within this government, or ſhall unlawfully and corruptly procure and ſuborn any witneſs to teſtify upon oath or affirmation, in any matter, cauſe or thing whatſoever; ſuch offender ſhall forfeit the ſum of Forty Pounds, one half thereof to the Governor, for the ſupport of this government, and the other half to the party grieved: But for want of lands, goods or chattles, to ſatisfy the ſaid Forty Pounds, every ſuch offender being convicted or attainted of perjury or ſubornation aforeſaid, ſhall for his ſaid offence ſuffer impriſonment by the ſpace of ſix months, without bail, and ſtand on the pillory the ſpace of one whole hour, in ſome market or public place, where the offence was committed; and ſhall ſuffer all the other puniſhments, penalties, forfeitures and diſabilities, which are inflicted upon ſuch offenders by any law or ſtatute of Great Britain. *And* that the ſtatute, made in the fifth year of Queen Elizabeth, chapter the ninth,

Subornation of perjury.

Penalty.

Impriſonment, pillory.

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ninth, entituled, *An act for puniſhment of ſuch perſons as ſhall procure or commit any wilful perjury*, ſhall be obſerved in this government, and be duly put in execution, as well againſt thoſe that ſhall falſify their affirmations, as thoſe who ſhall falſify their oaths, or be convicted of ſubornation of perjury.

Juſtices of Goal Delivery may give judgment of death againſt perſons reprieved.

SECT. 27. *And be it further enacted by the authority aforeſaid*, That in all caſes where any perſon or perſons have been, or ſhall be found guilty of any of the ſaid crimes for which judgment of death ſhould or may enſue, and ſhall be reprieved to priſon, without judgment at that time given him, her or them, ſo found guilty; that thoſe who now are, or hereafter ſhall be, aſſigned juſtices, or deliver the goal, where any ſuch guilty perſons ſhall remain, are hereby impowered and authorized to give judgment of death, and award execution againſt ſuch perſons ſo found guilty and reprieved, as the ſaid juſtices before whom ſuch perſon or perſons was or were found guilty, might have done before ſuch reprieve. *And* that no manner of proceſs or ſuit made, ſued or had before any of the King's Juſtices of the Supreme or Provincial Court, Goal Delivery, Oyer and Terminer, Juſtices of the Peace, or other of the King's Commiſſioners in this government, ſhall in any wiſe be diſcontinued by making and publiſhing of any new commiſſion or aſſociation, or by altering the names of the Juſtices of the ſaid Supreme Court, Goal Delivery, Oyer and Terminer, Juſtices of the Peace, or other the King's Commiſſioners; but that the new Juſtices of the Supreme Court, Goal Delivery, and of the Peace, and other Commiſſioners, may proceed in every reſpect, as if the old commiſſions and juſtices and commiſſioners had ſtill remained and continued unaltered. *And* that no proceſs, pleas, ſuits, actions, or proceedings whatſoever, which now are, or at any time hereafter ſhall be commenced, ſued, brought or depending before any of the ſaid Juſtices of the Supreme Court, Juſtices of the Courts of Common Pleas, or other the King's Juſtices, Commiſſioners or Magiſtrates in this government, ſhall be diſcontinued or put without day, by reaſon of the death or removal of the Lieutenant Governor of this government, or by the

No proceſs to be diſcontinued by reaſon of any new commiſſions or alterations of Magiſtrates, &c.

Nor by the death or removal of the Governor, &c.

the death, new commiſſion, or not coming of the ſaid juſtices or commiſſioners, or any of them; but ſhall ſtand good and effectual in law, to all intents and purpoſes, notwithſtanding the death or removal of the ſaid Governor, or of the death, new commiſſion, aſſociation, or not coming of the ſaid juſtices, or any of them.

Oath adminiſtered at the requeſt of a Quaker officer, &c.

SECT. 28. *And be it further enacted by the authority aforeſaid*, That in caſe of any officer being a Quaker, that notwithſtanding he be ſuch, yet any oath at the requeſt of the ſaid officer, taken before any magiſtrate, ſhall be deemed equal and full to the purpoſe, as if adminiſtered by the ſaid officer, any law or uſage to the contrary notwithſtanding.

No judgment &c. now depending, ſhall be diſcontinued.

SECT. 29. *Provided always, and be it further enacted by the authority aforeſaid*, That no indictment, preſentment or inquiſition, or any proceſs whatſoever now depending in any court within this government, for any of the crimes or offences mentioned in this act, ſhall be diſcontinued, abated or quaſhed for or by reaſon of this act, or any thing therein contained; but that the judges and juſtices of the reſpective courts within this government ſhall proceed to hear, try and determine the ſaid offences in ſuch indictments, preſentments and inquiſitions, mentioned to be committed againſt any act or acts of Aſſembly of this government, as were in force at the time of finding, making or taking the ſaid indictments, preſentments and inquiſitions, and thereupon to give judgment, and award executions, according to the directions of the ſaid reſpective acts of Aſſembly, upon which the ſaid indictments, preſentments or inquiſitions are founded, as if the ſame act or acts of Aſſembly were by a ſpecial clauſe in this act continued for that purpoſe; any thing herein contained to the contrary notwithſtanding.

CHAP

CHAP. XXIII.

CHAP. XXIII. a.

An ACT *to encourage the building of good Mills in this government.* A ſupplement hereto paſſed in October 1760, Chap. 172. and both repealed by a new law, paſſed November 6, 1773. chap. 221. a. See appendix.

CHAP. XXIV. a.

An ACT *appointing perſons to lay out two hundred acres of land in lots adjoining to the Court-Houſe of the county of Kent, and to diſpoſe of the ſame to the uſe of the public.*

Preamble.

NOTHING being of more conſequence to a country than the improvement thereof by the addition of tradeſmen, and others, in ſuch meaſure as may not be of great expence to the new ſettlers;

Benjamin Shurmer, &c. impowered to lay out into lots a tract of land in the town of Dover.

SECTION 1. *BE it therefore enacted by the honorable William Keith, eſq. by his Majeſty's royal approbation Lieutenant-Governor of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That it ſhall and may be lawful, and it is hereby made lawful for Benjamin Shurmer, William Brinkloe, and Richard Richardſon, or any two of them, to ſurvey and lay out into lots a certain tract of land in the county of Kent, adjoining to the Court-Houſe of ſaid county, and purchaſed by the people thereof, and commonly called the town of Dover, in ſuch meaſures and proportions as to them ſhall ſeem meet and convenient, and the ſaid lots ſo ſurveyed and laid out, as aforeſaid, to diſpoſe of and ſell to ſuch perſons as are willing to purchaſe and buy; and further, that it ſhall and may be lawful, and is hereby made lawful for the perſons abovementioned, to grant, execute and perform deed or deeds, conveyance or conveyances, bargains or ſales,

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ſales, for the ſaid lot or lots, to any ſuch perſon or perſons as ſhall purchaſe the ſame; which ſaid deeds, conveyances, bargains or ſales, ſhall be good and valid in law to the parties purchaſing, to them, their heirs and aſſigns for ever.

And to recover the money for ſaid lots.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That the above-mentioned Benjamin Shurmer, William Brinkloe, and Richard Richardſon, or any two of them, may and are hereby impowered to ſue for, aſk, levy and recover every ſuch ſum, or ſums of money, as ſhall ariſe due from the ſale of the ſaid lot or lots.

And render an account of the money received, &c.

SECT. 3. *And be it further enacted*, That the ſaid Benjamin Shurmer, William Brinkloe, and Richard Richardſon, ſhall and are hereby made liable, upon all demands hereafter, to render an account of money or monies received on account of the aboveſaid lots, to any perſon or perſons whom the Juſtices of the Peace for the time being, and Grand Jury of ſaid county, ſhall appoint; whoſe receipt ſhall diſcharge the ſaid above-mentioned perſons from any farther demand: And the ſaid Benjamin Shurmer, William Brinkloe, and Richard Richardſon, are hereby allowed, and it may be lawful for them to reſerve for themſelves out of the monies ſo as aforeſaid to be received, every ſuch part or proportion of the ſame, as by them, and any other three perſons, whom the Court and Grand Jury ſhall nominate for the ſaid purpoſe, ſhall agree upon and think fit.

SECT. 4. *Provided always, and it is hereby meant and intended*, That the ſaid ſurvey and allotment, and laying out, ſhall be finiſhed and compleated at or before the tenth day of March next.

CHAP.

CHAP. XXV.

CHAP. XXV. a.

An ACT *obliging all non-reſidenters within this government, to give ſecurity to the Prothonotaries of theſe counties, before any writ can iſſue from the ſaid offices, for the payment of the coſts.*

No Prothonotary, &c. to grant a writ to a non reſidenter without ſecurity, &c.

SECTION 1. BE *it enacted by the honorable William Keith, eſq. by and with his Majeſty's royal approbation Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That no Prothonotary or Clerk of any county of this government, ſhall grant or iſſue any writ to any perſon whatſoever, who is not an inhabitant within this his Majeſty's government, without cauſing and obliging every ſuch perſon firſt to give ſecurity for the coſts and charges that may accrue by ſuch writ or action; which ſaid ſecurity ſhall be by a ſubſtantial inhabitant of that county where ſuch action is commenced.

Attornies ſuing out proceſs for a non-reſidenter without ſecurity ſhall be anſwerable for coſts, &c.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That every Attorney who ſues out any proceſs for any perſon not an inhabitant, and who has not given ſecurity as aforeſaid, ſhall be liable and made anſwerable for the coſts and charges of the ſaid action to ſuch Prothonotary where the ſaid office is kept.

And the Prothonotary, &c. iſſuing writs without ſecurity ſhall be liable for coſts.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That every Prothonotary, or Clerk, who iſſues out any writ without ſuch ſecurity as above-mentioned, ſhall be liable for the charges and coſts himſelf; any law, cuſtom or uſage to the contrary in any wiſe notwithſtanding.

CHAP.

CHAP. XXVI. a.

CHAP. XXVI.

An ACT *for obliging the Sheriff, Clerk, and Regiſter of wills and teſtaments for the county of Suſſex, to reſide in the town of Lewes in the ſaid county.* By an act paſſed January 29, 1791, chap. 222, b. ſect. 4, 5; the officers above-ſaid are to reſide at the new Court-Houſe, by the ſaid act directed to be built; as alſo by a ſupplement thereto paſſed, October 26, 1791. chap. 237. b.

CHAP. XXVII. a.

1721.

An ACT *directing the priority of payment of the debts of perſons dying within this government.*

Preamble.

WHEREAS it often happens, that many perſons reſiding within this his Majeſty's government, having viſible eſtates within the ſame, do not only require and gain conſiderable credits from the inhabitants thereof, but alſo, upon the death of ſuch perſons, they are found oftentimes to be indebted to perſons that live and reſide in other of his Majeſty's plantations in America, by bills, bonds, judgments, or otherwiſe, made by the parties deceaſed, whereby it often falls out, that the aforeſaid inhabitants that formerly truſted ſuch perſons, are defrauded and deprived of their juſt debts contracted as aforeſaid; for the prevention of which for the future,

Debts to inhabitants of this government to have preference, &c.

SECT. 1. *Be it enacted by his excellency Sir William Keith, Baronet, &c. and by and with the advice and conſent of the freemen, &c.* That where debts are due by any perſons whatſoever to any the inhabitants of this government, in all courts within the ſame, priority of judgment and execution for debts due from any perſon whatſoever ſhall be allowed to the inhabitants of this government; and that no foreign debt ſhall be paid by any executor or adminiſtrator, till the debts due to the inhabitants of this government be firſt ſecured and paid, on penalty to pay the creditors of this

CHAP. XXVII. 1721.

this government as far as the aſſets in ſuch executor's or adminiſtrator's hands would reach before ſuch foreign debts were paid: *Provided* that the demand be made within ſix months after the death of ſuch debtor; any law, act, cuſtom or uſage to the contrary hereof in any wiſe notwithſtanding.

Letters of adminiſtration not granted in this government to be filed, &c.

SECT. 2. *And be it further enacted*, That when any perſon ſhall die having *Bona Notabilia* in ſeveral counties of this government, and in the province of Pennſylvania, or elſewhere; and when any perſon not reſiding in this government, who ſhall for that purpoſe obtain letters of adminiſtration of the Governor, or any other perſon out of this government, and the deceaſed being indebted to any of the inhabitants of this government for a debt contracted within the ſame, to the value of Twenty Pounds; *Be it enacted*, that ſuch adminiſtrator, before he be capable of obtaining any judgment againſt any inhabitants of this government, by virtue of ſuch letters of adminiſtration, in any Court of Record within this government, he ſhall be obliged to file ſuch letters of adminiſtration by whomſoever the ſame be granted out of this government, with ſome of the Regiſters, or proper officers in this government, and ſhall enter into bond with ſufficient ſureties, who have viſible eſtates in the government, with condition to pay and ſatisfy all ſuch debts as were owing by the ſaid inteſtate at the time of his or her death to any perſon reſiding in this government, as far forth as the effects or eſtate of the inteſtate within this government will extend. To the end that executors and adminiſtrators may know how to demean and govern themſelves in the juſt diſcharge of the debts of the deceaſed in due order of law; *Be it enacted*, That the ſame ſhall be paid and ſatisfied in manner following, *That is to ſay*, Firſt Funeral expences, which are to be regulated according to the circumſtances of the deceaſed's eſtate. Secondly, Debts due to the crown, and to the proprietary. Thirdly, Debts due by judgment, obtained in the life time of the party deceaſed. Fourthly, Debts due by recognizances, and for rent. Fifthly, Debts due by obligation. Sixthly, Debts due by bill. Seventhly, Servants and workmens wages. Eighthly, Accounts of merchants and others. And

Order of payment of the debts of perſons deceaſed.

every

every executor or adminiſtrator that ſhall pay any debts in other order than herein is directed, he having ſufficient notice of a debt of greater dignity due from his teſtator, or inteſtate, ſo as he may be able to plead the ſame in bar of a debt of a leſſer dignity, that then in ſuch caſe he ſhall anſwer ſuch debt to which the priority is given by the law, out of his own eſtate, if he have no effects of the party deceaſed; and that all other laws of this government, relating to the priority of payment of the debts of perſons deceaſed, and of perſons being indebted to the inhabitants of this government, are hereby rendered null and of no force or effect.

CHAP. XXVIII. a.

An ACT *for the better confirmation of the owners of lands and inhabitants of this government in their juſt rights and poſſeſſions.* (a)

Preamble.

WHEREAS divers laws have been enacted in this government, that made all lands and tenements (without any regard to the fee-ſimple, or other tenures by which they are held) as liable to pay debts as chattels, and be taken and ſold upon executions, or by decrees in courts of equity, or to be ſold by ſuch executors as had no power by their teſtators wills for ſo doing, and in certain caſes to be ſold by adminiſtrators, as alſo to be divided, allotted and diſtributed amongſt the children of inteſtates; in purſuance of which laws, divers lands, tenements and hereditaments in this government have been ſold, delivered, aſſeſſed, allotted or diſtributed accordingly: Now to the end that theſe ſales, deliveries, aſſignments and allotments, or diſtributions, may have effect according to the tenor and true meaning of the ſaid laws, and that the poſſeſſors and owners of the ſaid lands and hereditaments

(a) See a ſupplementary act hereto, 7 George II. chap. 60. and a further ſupplement paſſed April 12, 1773, chap. 218, a.

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reditaments ſo ſold, delivered, aſſigned and diſtributed, and their heirs and ſucceſſors, may quietly have, hold and enjoy the ſame;

What ſales, &c. are declared good and available in law.

SECTION 1. *BE it enacted*, &c. That all and ſingular the bargains and ſales, being made *bona fide*, and for valuable conſideration, as alſo all aſſignments, grants and allotments, or diſtributions, made to any perſon or perſons whatſoever, of any lands, tenements, or hereditaments, made in this government, according to the tenor and direction, or the true intent and meaning of the ſaid laws in thoſe caſes made and provided, before the firſt day of December, in the year one thouſand ſeven hundred and twenty-one; are hereby declared to be good and effectual, and ſhall ſtand, and be taken, deemed and adjudged good, ſure and available in law, againſt all perſons whatſoever, according to the tenor and effect of the ſame bargains, ſales, aſſignments, grants, allotments or diſtributions; and that every perſon or perſons, bodies politic and corporate, their heirs and ſucceſſors, and all claiming by, from, or under them, or any of them, for and according to their and every of their ſeveral eſtates and intereſts, of, in and to the ſaid lands, tenements and hereditaments, with their appurtenances, ſo as aforeſaid ſold, delivered, aſſigned or allotted, ſhall and may quietly or peaceably have, hold and enjoy the ſame lands, tenements, hereditaments, and premiſes, and every part thereof, againſt all and every perſon and perſons, their heirs and aſſigns, having, claiming, or pretending to have, any eſtate, right, title, intereſt, claim or demand whatſoever, of, in or to the ſame: *Saving nevertheleſs* to all and every perſon and perſons, bodies politic and corporate (others than to the perſon or perſons for payment of whoſe debts, and maintenance of whoſe widows and children, any of the ſaid lands, tenements, hereditaments, have been ſold, delivered, or conveyed as aforeſaid, and his and their heirs, and others than to the heirs at law of the ſaid inteſtates, or any claiming under them, who attempt to avoid or annul the ſaid diviſions, allotments or diſtributions, which have been made of the ſaid inteſtates lands and hereditaments amongſt their children, by virtue or in purſuance of the ſaid laws)

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laws) all ſuch actions, eſtates, poſſeſſions, rights, titles, intereſts, rents, profits and demands, as they, or any of them, have, ſhall, may or ought to have of, in, or to all or any of the ſaid lands, tenements and hereditaments, or any part thereof, in ſuch manner and form as if this act had never been made; ſo that they do purſue their ſaid rights, titles, claims, and intereſt, by way of action, or lawful entry, before the firſt day of October, which will be in the year of our Lord one thouſand ſeven hundred and twenty-two. *Provided always*, That all and every the children of inteſtates, to or amongſt whom any lands, tenements and hereditaments have been allotted or diſtributed by virtue of the ſaid laws, and all and every perſon and perſons to whom any parts or purports of lands, tenements or hereditaments have, as aforeſaid, been, or hereafter ſhall be ſold or delivered upon executions, ſhall hold and enjoy their ſaid reſpective parts, purports or allotments in ſeveralty, or as tenants in common, and not as joint-tenants.

Lands divided amongſt children of inteſtates, and thoſe ſold upon executions, to be held in common tenancy.

SECT. 2 *Whereas* divers perſons, living out of this government, are and have been owners of lands within the ſame, ſuch perſons have uſually appointed attornies to ſell and diſpoſe thereof: To the end therefore that thoſe who have ſo purchaſed, and their heirs or aſſigns for ever hereafter to be ſecured in their titles and eſtates, *Be it enacted*, &c. That all ſales of lands, tenements, and hereditaments formerly made by any Attornies or Agents who have been appointed by any perſon or perſons who had right ſo to do, and eſpecially giving them power or directions therein to ſell or convey land, are and ſhall be deemed and adjudged good and effectual in law, to all intents, conſtructions and purpoſes whatſoever, as fully as if the ſaid owners of ſuch lands had by their own deeds, bargains and ſales, actually and really ſold and conveyed the ſame; and all and ſingular the lands, tenements and hereditaments ſold and conveyed as aforeſaid, ſhall be and remain to ſuch purchaſers reſpectively, their heirs and aſſigns, for ever, as they were or ought to have been to the owner or owners of ſuch lands or premiſes ſo employing his or their attornies and agents as aforeſaid.

Sales, &c. which have been made by attornies, are adjudged good.

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Bonds, &c. proved before any magiſtrate, are good in law.

SECT. 3. *And be it further enacted*, &c. That all and every bonds, ſpecialties, letters of attorney, and other powers in writing, which ſhall be produced in any court, or before any magiſtrate in this government, the execution whereof being proved by two or more of the witneſſes thereunto before any Mayor or Chief Magiſtrate or Officer of the towns or places where ſuch bonds, letters of attorney, or other writings, are or ſhall be made or executed, and accordingly certified under the common or public ſeal of the towns or places where the ſaid bonds, letters of attorney, or other writings, are ſo proved reſpectively; ſhall be taken and adjudged as ſufficient in law, as if the witneſſes therein named had been preſent, and ſuch certification ſhall be ſufficient evidence to the court and jury for the proof thereof.

Sales of lands, &c. made by letters of attorney expreſſly giving power, &c. ſhall be good, &c.

SECT. 4. *And be it further enacted*, &c. That all ſales or conveyances of lands, tenements or hereditaments, which ſhall hereafter be made by virtue of any letters or powers of attorney or agency, duly executed, which do or ſhall expreſſly give power to ſell lands or other eſtates, and be certified to have been proved as aforeſaid, or ſhall be proved in this government before any Court of Common Pleas within this government, by one or more of the witneſſes thereto; *(b)* ſhall be good and effectual in law, to all intents, conſtructions and purpoſes whatſoever, as if the ſaid conſtituent or conſtituents had by their own deeds, bargains and ſales, actually and really ſold and conveyed the ſame.

SECT. 5. *Provided always*, That no ſale of lands, tenements and hereditaments, made by virtue of ſuch power or powers of attorney or agency as aforeſaid, ſhall be good and effectual, unleſs ſuch ſale be made and executed while ſuch power is in force; and all ſuch powers ſhall be accounted, deemed and taken to be in force, until the attorney or agent ſhall have due notice of a countermand, revocation, or death of the conſtituent.

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(b) See after in chap. 83. a. ſect. 3. 15 George II. and the act of 25 George II. chap. 127. a. further proviſion made.

CHAP. XXIX. a.

CHAP. XXIX. 8 Geo. I.

An ACT *for keeping in good repair the Dykes and Sluices belonging to the marſh on the North end of the town of New-Caſtle, lately in the tenure and occupation of John Donaldſon, Robert French, and Richard Halliwell, eſquires, deceaſed.* Private. Repealed and ſupplied.

CHAP. XXX. a.

An ACT *for eſtabliſhing Orphans Courts.*

WHEREAS ſeveral matters of great importance are directed to be done by the Orphans Courts of this government; but upon peruſal of the law directing the doing thereof, the ſame appears to be very deficient, and divers orphans and perſons concerned for them, or entruſted with their eſtates, labour under great inconveniences; Preamble.

SECTION 1. *BE it therefore enacted by the honorable Sir William Keith, Baronet, with his Majeſty's royal approbation Governor of the province of Pennſylvania, and counties of New-Caſtle, Kent, and Suſſex, on Delaware, and by and with the advice and conſent of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame,* That the Juſtices (a) of the Court of General Quarter-Seſſions of the Peace in each county of this government, or ſo many of them as are or ſhall be from time to time enabled Juſtices of Quarter-Seſſions to hold the Orphans' Court.

(a) By the 12th ſection of the ſyſtem of government as framed and adopted by the Delaware State in 1776, &c. four perſons under the ſtile of Juſtices of the Courts of Common Pleas and Orphans Courts for each county, were to be appointed by joint ballot of the Preſident and General Aſſembly in lieu of the Juſtices of the Court of General Quarter-Seſſions of the Peace in each county (as above) which regulation accordingly took place and continued until the firſt Tueſday in October, in the year one thouſand ſeven hundred and ninety-three, the time limited for the commenſement of the Judicial power, as eſtabliſhed in article 6, of the conſtitution of the State of Delaware, ratified in convention of the State, the 12th day of June, 1792—for which ſee ſaid article, ſects. 1, 15, and alſo ſects. 2, 3, of the ſchedule thereto.

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enabled to hold thoſe courts, ſhall have full power, and are hereby impowered, in the ſame week that they are or ſhall be by law directed to hold the ſame courts, or at ſuch other times as they ſhall ſee occaſion, to hold and keep a Court of Record in each of the ſaid counties, which ſhall be ſtiled, *The Orphans Court*; and to award proceſs, and cauſe to come before them all and every ſuch perſon and perſons, who as guardians, truſtees, tutors, executors, adminiſtrators, or otherwiſe, are or ſhall be entruſted with, or any wiſe accountable for, any lands, tenements, goods, chattels, or eſtate belonging, or which ſhall belong to any orphans, or any perſons under age, and cauſe them to make and exhibit, within a reaſonable time, true and perfect inventories and accounts *(b)* of the ſaid eſtates, and to cauſe and oblige the Regiſter, or ſuch perſon or perſons as for the time being ſhall have the power of probate of wills, and granting letters of adminiſtration in this government, or their deputies, upon application made in that behalf, to bring or tranſmit into the Orphans Court true copies or duplicates of all ſuch bonds, inventories, accounts, actings and proceedings whatſoever, now or hereafter remaining or being in the reſpective offices or elſewhere within the limits of their authority, as do or ſhall concern or relate to the ſaid eſtates, or any of them, and to order the payment of ſuch reaſonable fees for the ſaid copies, and for all other charges, trouble and attendance, which any officer or other perſon ſhall neceſſarily be put upon in the execution of this act, as they ſhall think equitable and juſt; and if upon hearing or examination thereof, it appears to the juſtices of the ſaid court, that any of the ſaid officers have miſbehaved themſelves to the prejudice of any minor, or any concerned for them as aforeſaid, the ſaid juſtices are hereby required to certify the ſame accordingly, which ſhall be good evidence for the party grieved to recover his damages at

and may award proceſs, &c.

(b) By the 16th ſect. of article 6, of the conſtitution of 1792, executors, adminiſtrators and guardians are to file their reſpective accounts with the Regiſter, and after adjuſt and ſettle the ſame before him; and the Juſtices of Orphans Court to hear exceptions thereto, if any be made by thoſe concerned.

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at common law. And where any letter of adminiſtration ſhall be granted, and no bond with ſureties given, as the law in that caſe requires, ſuch letters of adminiſtration ſhall be and are hereby declared to be void, and of none effect; and that the officer or perſon that grants the ſame, and his ſureties, ſhall be, *ipſo facto*, liable to pay all ſuch damages as ſhall accrue to any ſuch perſon or perſons, by occaſion of granting ſuch adminiſtration; and the party to whom the ſame ſhall be ſo granted, may be ſued as executor in his own wrong, and ſhall be ſo taken and deemed in any ſuit to be brought againſt him for or by reaſon of his ſaid adminiſtration. Or if, upon ſuch examination, it appears that any of the ſaid officers have not taken ſufficient ſureties where the adminiſtrators may not be of ability to anſwer or make good the value of what the decedent's eſtate doth or ſhall amount to; then the ſaid Juſtices of the Orphans Court are hereby impowered and required to call all ſuch adminiſtrators to give better ſecurity to the Regiſter by bonds, in manner and form as the law preſcribes, and under ſuch penalties, and with ſuch ſureties as the ſaid juſtices, after they have heard the objections of creditors or perſons concerned (if any ſuch be made to the court) ſhall approve of. And if it appears that any of the ſaid adminiſtrators have imbezzled, waſted or miſapplied, or ſuffered ſo to be, any part of the decedent's eſtates, or ſhall neglect or refuſe to give bonds with ſureties as aforeſaid, then, and in every ſuch caſe, the ſaid juſtices ſhall forthwith, by their ſentence, revoke or repeal the letters of adminiſtration granted them, and thereupon the ſaid Regiſter, or other perſon then impowered to grant adminiſtration as aforeſaid, where ſuch occaſion happens, are hereby required to grant letters of adminiſtration to ſuch perſon or perſons (having right thereto) as will give bonds in manner and form aforeſaid, who may have their actions of trover or detinue for ſuch goods or chattels as came to the poſſeſſion of the former adminiſtrators, and ſhall be detained, waſted, imbezzled or miſapplied by any of them, and no ſatisfaction made for the ſame.

Letters of adminiſtration without giving bond, are void.

If ſecurity given by adminiſtrators be not ſufficient, they ſhall give better.

In caſe of imbezzlement or refuſal of ſufficient ſurety, &c. letters of adminiſtration may be revoked, and granted to others, &c.

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In caſe minors eſtates be in danger by executors, &c. the Orphans Court ſhall cauſe ſuch to give ſecurity.

SECT. 2. *And be it further enacted*, That when any complaint is made to any of the ſaid juſtices, that an executrix having minors of her own, or being concerned for others, is married, or like to be eſpouſed to another huſband, without ſecuring the minors portions or eſtates; or that an executor or other perſon having the care and truſt of minors eſtates, is like to prove inſolvent, or ſhall refuſe or neglect to exhibit true and perfect inventories, or give full and juſt accounts of the ſaid eſtates, come to their hands or knowledge; then, and in every ſuch caſe, the ſame juſtices are hereby required forthwith to call an Orphans Court, who ſhall cauſe all and every ſuch executors and truſtees, as alſo ſuch guardians *(c)* or tutors of orphans or minors, as have been formerly appointed, or ſhall at any time hereafter be appointed by the ſaid court, to give ſecurity to the orphans or minors, by mortgage or bonds, in ſuch ſums, and with ſuch ſureties, as the ſaid court ſhall think reaſonable, conditioned for the performance of their reſpective truſts, and for the true payment or delivery to and for the uſe and behoof of ſuch orphans as they are concerned for (or ſuch as ſhall legally repreſent them) the legacies, portions, ſhares and dividends of eſtates, real and perſonal, belonging to ſuch orphans or minors, ſo far as they have aſſets, as alſo for their maintenance and education, as the ſaid court ſhall think fit to order for the benefit and advantage of ſuch orphans, as is uſual in ſuch caſes.

Minors money may be put out to intereſt,

SECT. 3. *And be it further enacted*, That any of the ſaid executors, adminiſtrators, guardians or truſtees, may, by the leave and direction of the Orphans Court, put out their minors money to intereſt, upon ſuch ſecurity as the ſaid court ſhall allow of; and if ſuch ſecurity ſo taken *bona fide*, and without fraud, ſhall happen to prove inſufficient, it ſhall be the minors loſs: But if no perſon, who may be willing to take the ſaid money at intereſt (with ſuch ſecurity) can be found by the perſons ſo as aforeſaid concerned for the minors, nor by any others, then the ſaid executors, guardians,

(c) See chap. 186. a. ſect. 7, 8, 9. Further and other proviſion as to guardians giving bonds for minors eſtates coming to their hands.

guardians, adminiſtrators or truſtees, ſhall in ſuch caſes be reſponſible for the principal money only, until it can be put out at intereſt as aforeſaid.

Not exceeding twelve months at one time.

SECT. 4. *Provided always*, That the day of payment of the money ſo to be put out to intereſt, at any one time, ſhall not exceed twelve months from the date of the obligation or other ſecurity given for the ſame, and ſo *toties quoties*, when and ſo often as the ſaid money ſhall be paid or come to the hands of the ſaid executors, guardians or truſtees.

SECT. 5. *Provided alſo*, That no executors, adminiſtrators or guardians, ſhall be liable to pay intereſt, but for the ſurpluſage of the decedent's eſtate, remaining in their hands or powers, and belonging to the minors, when the accounts of their adminiſtration are or ought to be ſettled and adjuſted before the Orphans Court or Regiſter reſpectively.

Farther authority of the Orphans Court.

SECT. 6. *And be it further enacted*, That the Juſtices of the ſaid Orphans Court, in the ſaid reſpective counties, ſhall by virtue of this act have full power and authority to exerciſe all the powers, authorities and juriſdictions granted or mentioned, or intended to be granted to the Orphans Court, in and by a law of this government, entituled, *An act for the better ſettling inteſtates eſtates*; and to do, execute and perform all ſuch matters and things as the Orphans Court in the ſaid act mentioned, might or ought to have done or performed, according to the true intent and meaning thereof; with power alſo to admit orphans or minors, when and as often as there may be occaſion to make choice of guardians or tutors, and to appoint guardians next friends, or tutors over ſuch as the court ſhall judge too young, or incapable, according to the rules of the common law, to make choice themſelves; *(d)* and at the inſtance and requeſt of the ſaid executors, adminiſtrators, guardians or tutors, to order and direct the binding or putting out of minors apprentices to trades, huſbandry, or other employments, as ſhall be thought fit; *(e)* and that all guardians and prochein amies, which ſhall be appointed by any of the ſaid

(d) All ſuch guardians to give bonds with ſurety, &c. as in chap. 186. 2. ſect 7, 8, 9.
(e) See after in chap. 77. 2. ſect. 3. 13 Geo. II.

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said Orphans Courts, shall be allowed and received without further admittance to prosecute and defend all actions and suits relating to the orphans or minors, as the cause may require, in any court or courts of this government.

Persons summoned, and not appearing, &c. may be punished by imprisonment, &c.

SECT. 7. *And* if any person or persons, being duly summoned to appear in any of the said Orphans Courts ten days before the time appointed for their appearance, shall make default, the justices may send their attachments for contempts, and may force obedience to their warrants, sentence or orders, concerning any matter or thing cognizable in the same courts; by imprisonment of body, or sequestration of lands or goods, as fully as any court of equity may or can do.

Persons aggrieved may appeal to the Supreme Court, by the act in chap. 222. a. sect. 5. So by the constitution of June, 1792. article 6. sect. 15.

SECT. 8. *Provided always*, That if any person or persons shall be aggrieved with any definitive sentence or judgment of the said Orphans Court, it shall be lawful for them, to appeal from the same to the Governor for the time being, in equity; which appeal, upon security given, as is usual in such cases, shall be granted accordingly.

Discharges for money, &c. by executors, are binding to the orphans.

SECT. 9. *And* if any of the said executors, administrators, guardians or trustees, did or shall receive and give discharges for any sums of money, debts, rents or duties belonging to any orphan or minor, for whom they were or are entrusted; it is hereby declared and enacted, that all such discharges or receipts shall be binding to and upon the orphan or minor, when he or she attains to full age, and shall be most effectual in law to discharge the person or persons that take the same. And when any of the said minors attain to full age, and the person or persons so as aforesaid entrusted or concerned for them, having rendered their accounts to the Orphans Court, according to the direction of this and the said other acts, and paid the minors their full due; then such minors shall acknowledge satisfaction in the said court: But in case any of them refuse so to do, then the said court shall certify how the said persons concerned have accounted and paid, which shall be a sufficient discharge to the guardians or tutors, and to the trustees, executors or administrators, who shall so account and

Bonds how to be cancelled.

pay;

pay; and thereupon all bonds entered into for payment of ſuch orphans portions, ſhall be delivered up and cancelled.

What perſons may have the charge of orphans or miners.

SECT. 10. *Provided always, and be it further enacted*, That none of the ſaid Orphans Courts ſhall have any power to order or commit the tuition or guardianſhip of any orphans or minors, or to bind them apprentices to any perſon or perſons of a religious perſuaſion, that ſhall be different from what the parents of ſuch orphan or minor profeſſed at the time of their deceaſe, or againſt the minor's own mind or inclination, ſo far as he or ſhe has diſcretion and capacity to expreſs and ſignify the ſame, or to perſons that are not of good repute, ſo as others of good credit and the ſame perſuaſion may or can be found.

Due regard to be had to wills, &c.

SECT. 11. *Provided alſo*, That the juſtices of the ſaid courts, and all others, concerned in the execution of this act, ſhall have due regard to the direction of all laſt wills and teſtaments, and to the true intent and meaning of the teſtators, in all matters and things that ſhall be brought before them concerning the ſame.

Bonds directed to be given by any law, &c. to be for the uſe of the perſons concerned, &c.

SECT. 12. *And be it further enacted*, That all ſuch bonds or obligations as are by this act, or by any other law of this government, directed and required to be given to the Governor, and all ſuch bonds as by any law are directed to be given by the Regiſter *(f)* or by any other officers or perſons in office whatſoever in this government, for the due execution of his or their reſpective offices or employments, *are hereby declared* to be to, and for the uſe of, and in truſt for the perſon or perſons concerned; and that the benefit thereof ſhall be extended, from time to time, for the relief and advantage of the party grieved by the miſ-feazance or non-feazance of the officers that did or ſhall give the ſame: And that when any of the ſaid bonds ſhall be put in ſuit, and judgment thereupon obtained, the judgment ſhall remain in the ſame nature the bonds were, *(g)* and that no execution iſſue

(f) See before in chap. 19. 2.

(g) As to ſuits and proceedings on the ſecurities given by Sheriffs, ſee chap. 32. p. 194. paſſed June 17, 1793.

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out thereupon, before the party grieved ſhall by writ of *ſcire facias* ſummon the perſon or perſons, againſt whom the ſaid judgment is obtained, to appear and ſhew cauſe why execution ſhall not iſſue upon the ſaid judgment; and if the party grieved ſhall prove what damages he ſuſtained, and thereupon a verdict be found for him, the Court of Common Pleas (where ſuch ſuit is) ſhall award execution for ſo much as the jury ſhall then find, with coſts, and no more. And the former judgment is hereby declared ſtill to remain cautionary, for the ſatisfaction of ſuch others as ſhall legally prove themſelves damnified, and recover their damages in the manner aforeſaid: And the ſaid Clerks of the Courts of Common Pleas, and all others, in whoſe hands the ſaid bonds ſhall be depoſited or lodged, are hereby required to give any perſon injured, that requeſts the ſame, a true copy of any of the ſaid bonds, paying Three Shillings for the ſame, and to produce the original in court upon any trial that ſhall be had for the breach of any of them, if required by the court: And if the perſon in whoſe hands the ſaid bonds ſhall be lodged or come, ſhall refuſe or delay to give copies thereof, and produce the original in court as aforeſaid, he or they ſhall forfeit and pay to the party grieved, treble damages, to be recovered againſt the officer that hath ſuch bonds, or his ſureties, by action of debt, bill, plaint, or information, in any court of this government, where no eſſoign, protection, or wager of law, or any more than one imparlance, ſhall be allowed.

Clerks of courts, &c. required to give copies of ſuch bonds, &c.

CHAP. XXXI. a.

An ACT *for the better ſettling inteſtates Eſtates.* Repealed in November 1742. See after in 2d. chap. 101. a and for both theſe acts ſee the appendix.

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CHAP. XXXII. a.

An ACT *impowering Timothy Hanſon, eſq. Attorney to Rebecca Kearney, adminiſtratix of Philip Kearney, eſq. deceaſed, to convey and make over unto Meſſrs. Benjamin Shurmar, John Hall, Hugh Durborow, and Andrew Caldwell, ſeveral tracts or parcels of land in the county of Kent, on Delaware.*

WHEREAS it doth appear to the Houſe of Repreſentatives, in Aſſembly met, That Philip Kearney, deceaſed, did, by deed of conveyance, in his lifetime, purchaſe from John Roe, of Queen Ann's county, in Maryland, planter, ſeveral tracts or parcels of land, ſituate, lying, and being in the county of Kent, on Delaware, ſpecified and mentioned in the ſaid deed, bearing date the firſt day of March, *annoque domini* 1720; *And whereas* the ſaid Philip did by indenture, or inſtrument of writing, under his hand and ſeal, bearing equal date with the above-mentioned deed of conveyance, as it appears to this Houſe, acknowledge and declare for himſelf, his heirs, executors, and adminiſtrators, that the above-named deed of conveyance of the lands therein mentioned, from the ſaid Roe to him the ſaid Kearney, were *bona fide*, and purely in truſt, and for the uſe and behoof of Benjamin Shurmar, John Hall, Hugh Durborow, jun. and Andrew Caldwell, and their heirs and aſſigns, for ever; and did further, in the ſaid indented inſtrument of writing, covenant and oblige himſelf, his heirs, executors and adminiſtrators, that he, upon diviſion of the ſaid tracts or parcels of land, by the above-named parties amongſt themſelves made, would, at the coſt and expence of the reſpective parties, execute deeds according to the diviſion ſo made. *Now, whereas* the aboveſaid Philip Kearney died before the execution of the deeds according to the ſaid agreement, and his heir being of the age of ſeven years old only, ſo that the ſaid Benjamin Shurmar, Hugh Durborow, John Hall, and Andrew Caldwell, will for the want of a performance of the ſame be prevented in the uſe of the ſaid land,

and

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and otherwiſe much damnified: To the end therefore that the ſaid Benjamin Shurmar, John Hall, Hugh Durborow, and Andrew Caldwell, and every of them, may be legally put into the poſſeſſion of what appears in all equity and good conſcience to appertain of right to them, and every of them; we pray that it may be enacted,

Timothy Hanſon, &c. impowered to convey lots, &c.

SECT. 2. *And be it enacted by his excellency ſir William Keith, Baronet, Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, &c. by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That Timothy Hanſon, eſq. Attorney to Rebecca Kearney, adminiſtratrix to the ſaid Philip Kearney, deceaſed, ſhall and is hereby impowered to execute, acknowledge, and make over unto the reſpective parties above-named, their heirs and aſſigns, for ever, according to the diviſion of the ſaid parties agreed upon, the reſpective lots and parts of the ſaid purchaſed lands from the ſaid Roe conveyed to the ſaid Kearney, in truſt as aboveſaid, firm and good deeds of conveyance, in fee-ſimple, which ſaid deeds ſhall be, and are hereby declared to be as firm, good and valid in law, to all intents, ends, and purpoſes, as if made, executed, and acknowledged, by the ſaid Philip Kearney in his life-time; any law, cuſtom or uſage to the contrary notwithſtanding.

CHAP. XXXIII. a.

An ACT *for reducing the intereſt of money from eight to ſix per cent. per annum.*

No perſon ſhall take above 6 l. for forbearance of 100 l. one year.

SECTION 1. BE *it enacted by ſir William Keith, Baronet, Governor of New-Caſtle, Kent, and Suſſex counties, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That no perſon ſhall, directly or indirectly, for any bonds or contracts to be made after the publication of this act,

take

take for the loan or uſe of money, or any other commodities, above the value of Six Pounds, for the forbearance of One Hundred Pounds, or the value thereof, for one year, and ſo proportionably for a greater or leſſer ſum; any law, cuſtom or uſage to the contrary notwithſtanding.

SECT. 2. *And be it further enacted*, That if any perſon or perſons whatſoever, do or ſhall (after the publication of this act) receive or take more than Six Pounds per cent. per annum, on any ſuch bond or contract as aforeſaid; upon conviction thereof, the perſon or perſons ſo offending ſhall forfeit the money, and other things lent, the one-half thereof to the governor, for the ſupport of government, and the other half to the perſon who ſhall ſue for the ſame, by action of debt, bill, plaint or information, in any Court of Record within this government, wherein no eſſoign, protection or wager of law, nor any more than one imparlance, ſhall be allowed. Penalty.

CHAP. XXXIV. a.

An ACT *for cutting a new mouth for the creek called the Murtherkill, in Kent county, into the bay of Delaware.* Obſolete.

CHAP. XXXV. a.

An ACT *repealing ſome clauſes in the act for emitting Six Thouſand Pounds, &c.*

CHAP. XXXVI. a.

An ACT *impowering the magiſtrates of New-Caſtle county to view and direct the removal of obſtructions to the fiſhery of Brandywine.* Repealed by an act paſſed October, 1760. See chap. 171. a.

CHAP.

CHAP. XXXVII.

CHAP. XXXVII. a.

An ACT *to prevent ſickly veſſels coming into this government.*

WHEREAS it hath been found, by ſad experience, that the coming and arrival of ſickly veſſels at the ports and towns of this government, and the landing of their paſſengers and goods before they have lain ſome time to be purified, hath proved very detrimental to the health of the inhabitants;

BE it enacted by the honorable Patrick Gordon, eſq. (a) Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and of the province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, and by the authority of the ſame, That from and after the publication hereof, no veſſel coming from any unhealthy or ſickly place, or having any ſick perſons on board whatſoever, ſhall come nearer than one mile to any of the towns, ports, or plantations, within this government, without bills of health, or ſhall preſume to bring to ſhore ſuch veſſel, nor to land any of the paſſengers, or their goods, *(b)* at any of the ſaid ports or places, until ſuch time as they ſhall be viewed by perſons to be appointed for that purpoſe, and obtain a licence for their landing from the Governor, or from any two Juſtices of the Peace of the county where ſuch veſſel or paſſengers ſhall come or land, under the penalty of One Hundred Pounds, to be paid by the maſter of ſuch ſhip or veſſel for every ſuch offence, to the uſe of the Governor *(c)* to be recovered by action of debt, bill, plaint, or information, in any Court of Record within this government, wherein no eſſoign, protection, or wager of law, ſhall be allowed, nor any more than one imparlance.

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(a) Patrick Gordon, eſq. began his government June 22, 1726, and continued until Auguſt 5, 1736.

(b) See after in chap. 66. a. ſects. 5, 10, 12.

(c) To be for the uſe of the ſtate by an act paſſed February 22, 1777. chap. 6. ſect. 13.

CHAP. XXXVIII. a.

CHAP. XXXVIII.

An ACT *to oblige witneſſes, being legally ſummoned, to give evidence.*

BE *it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and of the province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if any perſon or perſons, ſummoned or required by any proceſs whatſoever, or order of any court, or magiſtrate, or other officer whatſoever within this government, lawfully authoriſed to iſſue forth the ſame, to give his, her, or their evidence, upon any matter or difference whatſoever, ſhall refuſe or neglect to give attendance, according to the directions of the ſaid order, ſummons, or command, ſuch perſon or perſons ſo refuſing (not being prevented by ſickneſs, or ſome unavoidable accident) ſhall pay to the party or parties wronged or injured thereby, all ſuch damages as he or they ſhall ſuſtain by reaſon thereof, to be recovered in any Court of Record within this government, by action of debt, bill, plaint, or information, wherein no eſſoign, protection, or wager of law, ſhall be allowed, and ſhall further be liable to be fined by the Juſtices of the Quarter Seſſions of the Peace in any ſum not exceeding Forty Shillings, for ſuch their contempt.

CHAP. XXXIX. a.

An ACT *about determining debts under Forty Shillings.*

Supplied. See after in chap. 73. a.

CHAP.

CHAP. XL.

CHAP. XL. a.

An ACT *concerning bills of exchange.*

BE *it enacted by the honorable Patrick Gordon, esq. Lieutenant Governor, of the counties of New-Castle, Kent, and Sussex, upon Delaware, and of the province of Pennsylvania, by and with the advice and consent of the Representatives of the said counties, in General Assembly met, and by the authority of the same,* That if any person or persons within this government, shall draw or indorse any bill or bills of exchange upon any person or persons in England, or other parts of Europe, or beyond the seas, and the same be returned back unpaid, with a legal protest, the drawer thereof, and all others concerned, shall pay and discharge the contents of the said bill or bills, together with Twenty Pounds per cent. advance for the damage thereof, and so proportionable for a greater or less sum, in the same specie as the same bill or bills were drawn, or current money of this government equivalent to that which was first paid to the drawer or indorser.

CHAP. XLI. a.

An ACT *against removing land-marks.*

FOR the greater security and certainty of boundaries of lands,

BE it enacted, by the honorable Patrick Gordon, esq. Lieutenant Governor of the counties of New-Castle, Kent, and Sussex, upon Delaware, and of the province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties, in General Assembly met, and by the authority of the same, That no person or persons whatsoever within this government, shall cut, fall, alter or remove, any certain bounded tree, or other allowed land-mark, or shall

survey

ſurvey any land, or mark any tree as a corner-tree, or a line-tree, upon any land not belonging to the party ſo doing, without lawful authority, under the penalty of any ſum not exceeding Fifty Pounds, and not leſs than Ten Pounds, to the uſe of the party wronged, to be recovered in any Court of Judicature within this government, by bill, plaint, or information, wherein no eſſoign, protection, or wager of law, ſhall be allowed, nor any more than one imparlance.

CHAP. XLII. a.

An ACT *againſt wears acroſs creeks and rivers.*

TO the end that all perſons inhabiting in or near any creek or river in this government, may enjoy all privileges and advantages that from them are to be reaped;

BE it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and of the province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, and by the authority of the ſame, That whoſoever ſhall make any wear or wears, or ſet any nets from one ſide to the other of the channel of any creek or river within this government, being thereof convicted, by the view of one Juſtice of the Peace, or by the teſtimony of one credible witneſs, ſhall for every ſuch offence pay Ten Shillings, and the wear or wears ſhall be deſtroyed by order of the juſtice before whom the complaint ſhall be heard. Penalty on making wears, &c.

Provided, That nothing in this act extend to reſtrain the making of wears over mill-dams or races, nor to ſuch as make wears on their own lands, ſo as that they in either of theſe caſes ſhall not be injurious to others.

And be it further enacted, That no wear or wears ſhall be made on the South ſide of Lewes Creek, in

CHAP. XLII. Suſſex county, under the penalty of Ten Shillings, and the wear to be deſtroyed by the order of any juſtice of the ſaid county.

CHAP. XLIII. a.

An ACT *for the trial of Negroes.*

Two juſtices and ſix freeholders impowered to try all offences committed by Negroes, &c.

SECTION 1. BE *it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act, it ſhall and may be lawful for two Juſtices of the Peace of this government, who ſhall be particularly commiſſionated by the Governor for that ſervice within the reſpective counties thereof, and ſix of the moſt ſubſtantial freeholders of the neighbourhood, *(a)* to hear, examine, try and determine all ſuch offences committed by any Negro or Mulatto ſlaves within this government, which ſaid freeholders ſhall be by warrant, under the hands and ſeals of the reſpective juſtices, commiſſionated as aforeſaid, directed to ſome Conſtable of the ſaid county, be ſummoned to appear at ſuch time and place as the ſaid juſtices ſhall appoint, which ſaid freeholders the ſaid juſtices ſhall ſolemnly ſwear or atteſt well and truly to give their aſſiſtance and judgment together with the ſaid juſtices, upon the trial of ſuch Negroes or Mulattoes; which freeholders, or any four of them, being qualified as aforeſaid, ſhall hold a court at the Court-Houſe in the ſaid reſpective counties where the crime is committed, for the hearing, trying, determining and convicting

(a) So much of this act as gives power to the two juſtices and ſix freeholders to try, determine and convict any ſlave for a crime puniſhable with death, is repealed by an act paſſed February 3d, 1789. chap. 194. b, and trial there directed to be by jury in the Court of General Quarter-Seſſions of the Peace for the ſeveral counties; the expence of trial to be paid by the county, in ſects. 3, 4.

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victing of such Negro or Negroes, or Mulatto slaves, as shall be before them charged or accused of committing any murder, manslaughter, buggery, burglary, robbery, rape, attempts of rape, or any other high and heinous offences, committed, acted or done in any the respective counties within this government, as aforesaid.

Who may acquit or condemn, according to their evidence, and order execution, &c.

SECT. 2. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the said court of justices and freeholders as aforesaid, to examine, try, hear, judge, determine, convict, acquit or condemn, according to their evidence, any Negro or Negroes, or Mulatto slaves, for any the crimes or offences aforesaid, or any other high or capital offences, upon due proof to them made, to pronounce such judgment or sentence as is agreeable to law, and the nature of the offence, and to order execution of the said judgment or sentence accordingly, or otherwise to acquit, free and discharge such Negro or Negroes, or Mulatto slaves, in case the evidence shall not be sufficient for a conviction therein.

Slaves condemned to death, to be valued, and two thirds of the value paid to the master, &c.

SECT. 3. *And be it further enacted*, That upon the conviction of any Negro or Mulatto slave, belonging to any of the inhabitants of this government, for any capital cause for which the party convicted shall suffer death, the said justices and freeholders, before whom they were convicted, shall immediately value the said slave or slaves, and in case the Negro or Mulatto slave shall be put to death, that the two-thirds of the appraised value of such slave so executed, shall be paid to the master or owner of such slave by the County Treasurer out of the public levy, to be raised in the same manner as the county levies.

Sheriff to cause the sentence to be executed.

SECT. 4. *And be it further enacted by the authority aforesaid*, That where such Negro or Negroes, or Mulatto slaves shall be convict, and such judgment or sentence shall be pronounced by the respective justices and freeholders as aforesaid, and a warrant by them, or any four of them, one of which to be one that sat upon the trial, signed, sealed and delivered to the High Sheriff of the county where the fact was committed, for the execution of such Negro or Mulatto, the same shall be duly executed, or caused to be

duly

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duly executed by the ſaid Sheriff, according to the directions of ſuch warrant, on pain of being diſabled to act any longer in that poſt or office; and if any of the ſaid juſtices or freeholders neglect or refuſe to do their duty herein, they ſhall be liable to be fined by the juſtices at their next Court of General Quarter Seſſions of the ſame to be held for the ſaid county, in any ſum not exceeding Five Pounds, for the uſe of the Governor towards the ſupport of government, to be levied by diſtreſs and ſale of the goods and chattels of ſuch juſtices or freeholders ſo refuſing as aforeſaid.

Penalty on juſtices or freeholders neglecting their duty herein.

Puniſhment of ſlaves attempting to commit rapes;

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any Negro or Mulatto ſlave within this government, ſhall attempt to commit a rape on a white woman or maid, they ſhall be tried in manner aforeſaid, and ſhall be puniſhed by ſtanding four hours in the pillory at the Court-Houſe on ſome court day, with both his ears nailed to the pillory, and before he be taken down from the ſame, ſhall have both his ears cut off cloſe to his head. And if any Negro or Mulatto ſlave ſhall be convict before two Juſtices of the Peace in this government, of ſtealing, or fraudulently taking or carrying away any goods, living or dead, the maſter or owner of ſuch Negro or Mulatto ſlave, if ſuch goods ſhall not be found, ſhall make ſatisfaction to the party wronged, and pay all coſts, to be levied by diſtreſs and ſale of the ſaid maſter's or owner's goods and chattels, and the Negro or Mulatto, ſo offending, to be whipped as the ſaid juſtices ſhall adjudge and appoint.

or convicted of ſtealing, &c.

Puniſhment of ſlaves preſuming to carry arms, &c.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That if any Negro or Mulatto ſlave ſhall preſume to carry any guns, ſwords, piſtols, fowling-pieces, clubs, or other arms and weapons whatſoever, without his maſter's ſpecial licence for the ſame, and be convicted thereof before a Magiſtrate, he ſhall be whipt with twenty-one laſhes, upon his bare back.

Puniſhment of Negroes meeting in companies.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That if any Negroes, above the number of ſix in one company, not belonging to one owner, ſhall meet together, and upon no lawful buſineſs of their maſters or owners, and being convicted thereof, by the

the view of one Juſtice of the Peace, or the teſtimony of one credible witneſs, ſuch Negro or Negroes ſo offending ſhall be publicly whipped at the diſcretion of one Juſtice of the Peace, not exceeding twenty-one laſhes, each Negro.

CHAP. XLIV. a.

An ACT *againſt adultery and fornication. (a)*

FOR the preſervation of virtue and chaſtity among the people of this government, and to prevent the heinous ſins of adultery and fornication.

Penalty of committing adultery.

SECTION 1. *BE it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That whoſoever ſhall commit adultery, and be thereof legally convicted, ſhall forfeit and pay the ſum of Fifty Pounds, one moiety thereof to the uſe of the Governor for the ſupport of government, and the other moiety to the uſe of the poor of the county where the ſame is committed, or otherwiſe to be publicly whipt with twenty-one laſhes on his or her back, well laid on, at the common whipping poſt, at the election of the party convicted.

SECT. 2. *Provided always,* That the teſtimony of either of the parties concerned in committing the adultery, ſhall not be ſufficient to convict the other, without further evidence, that ſhall at leaſt amount to violent preſumption.

Penalties on fornicators.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That if any perſon ſhall commit fornication, and be thereof legally convict, ſuch perſon or perſons ſhall receive twenty-one laſhes on his or her bare back, well

(a) See an act ſupplementary hereto paſſed February 9th, 1796. chap. 108. c. whereby many of the proviſions in this act are repealed and ſupplied.

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well laid on, at the common whipping-poſt, or otherwiſe ſhall pay to the proprietor or Governor towards the ſupport of government, the ſum of Three Pounds, at the election of the party ſo committed as aforeſaid. And any ſingle or unmarried woman having a child born of her body, the ſame ſhall be ſufficient proof to convict her of fornication, without the charges of preſentment or indictment; and the man charged by ſuch woman to be the father of ſuch child, ſhall be the reputed father, and ſhe perſiſting in her ſaid charge in the time of her extremity and labour, and afterwards in open court, upon the trial of ſuch perſon ſo charged, the ſame ſhall be given in evidence, in order to convict ſuch perſon of fornication.

What ſhall be proof.

Any woman bearing a baſtard child, to be puniſhed in the county where the child is born, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That if any unmarried woman, or any woman who cannot make proof of her having a huſband, abſenting herſelf from the place where ſhe uſually lived, ſhall come into any county within this government, and there bear a child, ſhe ſhall be liable to be puniſhed in the county where the ſaid child ſhall be born, as ſhe ſhould or ought to have been had the child been there begotten; and if any ſuch unmarried woman ſhall be with child in any county within this government, and ſhall go out of the ſame, and bear ſuch baſtard child in any other place, and afterwards return into the county from whence ſhe went with the ſaid child, within one year, without receiving any puniſhment for her fornication, ſhe ſhall be puniſhed as if ſuch baſtard child had been begotten and born in ſuch county into which ſhe ſhall return as aforeſaid.

Penalty on perſons entertaining unmarried women with child.

And if any perſon or perſons within this government, ſhall knowingly entertain or ſhelter any ſuch unmarried woman being with child coming into this government, without giving notice thereof unto ſome Juſtice of the Peace within three days after her coming into his or her houſe; ſuch perſon or perſons being legally convicted thereof, ſhall forfeit Five Pounds for every ſuch offence, to the uſe of the goverment, as aforeſaid.

Woman-ſervant having a baſtard child, ſhall ſerve, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any woman-ſervant ſhall bear a baſtard child within the time of her ſervitude, in regard of the loſs and trouble her maſter and miſtreſs

muſt

must ſuſtain thereby, and of the maintenance of the child until it ſhall be nine months old, in caſe no father can be found of ability ſufficient to maintain ſuch child, ſhe ſhall ſerve one whole year after her time by indenture or covenant is expired, and pay all ſuch coſts and charges as ſhall happen or ariſe by reaſon of any proſecution to be had againſt her for ſuch offence.

Vagrant perſons pretending to be man and wife how to be proceeded with.

SECT. 6. *And whereas* ſundry vagrant perſons do frequently come into this goverment, and pretending to be man and wife, without a legal certification of their being married perſons, and as ſuch cohabit together; *Be it enacted by the authority aforeſaid*, That all perſons coming into this government as man and wife, without giving ſome ſufficient ſatisfaction within ten days after ſuch their coming, to ſome Juſtice of the Peace for the county into which they come, if thereto required, of their being married, they ſhall be deemed and taken to be fornicators, and ſhall forfeit or be puniſhed accordingly.

Perſons providing for, or entertaining lewd women, to be deemed fornicators, &c.

SECT. 7. *And be it further enacted*, That whoſoever ſhall after the end of this Seſſions of Aſſembly, directly or indirectly, entertain, provide for, or cauſe to be entertained or provided for, any lewd woman or women, or that ſhall frequent her or their company, after that admonition be given by the Juſtices of the Court of Quarter-Seſſions, or any two of them, of the ſaid county where ſuch perſon ſhall inhabit, ſhall be judged a fornicator or adulterer, as the caſe ſhall require, and ſhall ſuffer ſuch penalties as by the laws of this government is appointed for ſuch offence.

Notice to be given before admonition, &c.

SECT. 8. *And* for the aſcertaining what ſhall be accounted a lewd woman, *Be it enacted by the authority aforeſaid*, That the Juſtices of the Peace aforeſaid, or any two of them, before any admonition by them or any of them given in manner aforeſaid, ſhall give or cauſe notice to be given to any perſon or perſons by them, or any two of them, ſuſpected of lewdneſs or incontinency, and being or reſiding within their reſpective counties, to appear at the next Court of Quarter-Seſſions to be held for the ſaid county, and on the appearance of ſuch perſon or perſons, to acquaint them of the ſuſpicion that is had of them, and

to

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to hear what reaſonable excuſe ſuch perſons ſhall offer why they ought not to be proceeded againſt as fornicators or adulterers, as the caſe may be: And in caſe the perſon or perſons having ſuch notice given them, and the ſame proved by affidavit, do not appear, or if appearing do not acquit themſelves of the cauſe of ſuch ſuſpicion, in ſuch manner as the juſtices of the ſaid Quarter-Seſſions ſhall approve; then it ſhall and may be lawful for ſuch juſtices, or any two of them, and they are hereby required to admoniſh ſuch perſon or perſons according to the direction afore-mentioned; which admonition, together with proof of the cohabitation of the parties ſo admoniſhed, or their frequenting each other's company after admonition given, ſhall be ſufficient in any Court of Record within this government, to convict the perſons ſo cohabiting or frequenting each others company after admonition given, as aforeſaid, of fornication or adultery, as the caſe may happen, and ſubject them to the penalties afore-mentioned; any law of this government to the contrary notwithſtanding.

Penalty on white women that ſhall have Mulatto children, &c.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That if any white woman within this government, ſhall bear a baſtard child begotten by a Negro or Mulatto man, ſuch child ſhall be put out to ſervitude, *(b)* and ſhall ſerve ſuch perſon or perſons as the County Court ſhall ſee fit, or order and appoint, to and for the uſe, benefit and advantage of the county wherein ſuch child ſhall happen to be born, as aforeſaid, until he or ſhe attain to the age of thirty-one years: And that the mother of ſuch child ſhall forfeit and pay the ſum of Ten Pounds to the Governor, for the ſupport of government, and be publicly whipt with thirty-nine ſtripes on her bare back, well laid on, at the common whipping-poſt, and ſtand in the pillory the ſpace of two hours; and if a ſervant, and uncapable of paying the ſaid fine of Ten Pounds, ſhe ſhall in lieu of and ſatisfaction of the ſaid fine, be adjudged

(b) The firſt part of this clauſe for the putting out ſuch child to ſervitude repealed by an act, paſſed January 23, 1795. chap. 71. c. and by the ſupplementary act hereto, chap. 108. c. ſect. 7. all fines, forfeitures, and corporal puniſhments for baſtardy and fornication are done away.

ed to ſerve her ſaid maſter, miſtreſs, or ſuch other perſon, after her ſervitude, and the time allowed by the court to her maſter or miſtreſs for their loſs and trouble is expired, as the juſtices before whom ſhe is or ſhall be convict or convicted, ſhall think fit, for any term not exceeding five years; and that the Negro or Mulatto man, after conviction thereof, ſhall be publicly whipt with thirty-nine laſhes on his bare back, and ſtand in the pillory for the ſpace of two hours, with one ear nailed thereunto, and cropped off.

Puniſhment of the Negro, &c.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That if any white man ſhall be legally convicted of committing fornication with a Negro or Mulatto woman, ſuch white man ſhall forfeit and pay the ſum of Twenty Pounds, and be publicly whipt with twenty-one laſhes, well laid on, at the common whipping-poſt.

Penalty on white men committing fornication with Negro women, &c.

CHAP. XLV. a.

An ACT *to prevent ſwine running at large in the town of Dover.* Repealed and ſupplied. See after, chap. 210. a. paſſed June 13, 1772.

CHAP. XLVI. a.

An ACT *for taking lands in execution for payment of debts.*

TO the end that no creditors may be defrauded of their juſt debts due to them from the perſons who have ſufficient real, if not perſonal, eſtates, to ſatisfy the ſame,

See chap. 9. a. chap. 28. a. ſect. 1.

SECTION 1. *BE it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and of the province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid*

Where perſonal eſtate is deficient, lands, &c. may be ſold, &c.

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counties, in General Aſſembly met, and by the authority of the ſame, That all ſuch lands, tenements, or hereditaments whatſoever, within this government, where no ſufficient perſonal eſtate can be found, ſhall be liable to be ſeized and ſold upon judgment and execution obtained. *(a)*

Unleſs the rent of ſuch lands, &c. will within 7 years pay the debt and coſts, &c.

SECT. 2. *Provided always,* That it ſhall not be lawful for any Sheriff or other officer, by virtue of any executions, or of any writ or writs thereupon, to ſell or expoſe to ſale any ſuch lands, tenements, or hereditaments in this government, which ſhall or may yield yearly rents and profits beyond all reprizes, ſufficient within the ſpace of ſeven years, to ſatisfy or pay ſuch debts or damages, with the coſts of ſuit; but that all thoſe lands, tenements and hereditaments, ſhall by virtue of the writ or writs of execution, be delivered to the party obtaining the ſame, until the debt and damages be levied by a reaſonable extent, in the ſame method and manner as lands are delivered upon Writs of *elegit* in England.

How the Sheriff is to proceed, in caſe the rents, &c. will not pay, &c.

SECT. 3. *Provided neverthelefs,* That if the clear profits of ſuch lands or tenements ſhall not be found, by the valuation of two judicious and ſubſtantial freeholders, upon their oaths or affirmations, to be ſufficient within ſeven years, to ſatisfy the debt and damages in ſuch executions, or if before the extent be out, any other debt or damages ſhall be recovered againſt the ſame debtor or defendant, his heirs, executors or adminiſtrators, which, with what remains due upon that extent, cannot all be ſatisfied out of the yearly profits of the lands and tenements ſo extended within ſeven years; then, and in every ſuch caſe, the Sheriff or other officer ſhall accordingly certify the ſame upon the return of ſuch executions, whereupon Writ or Writs of *venditioni exponas* ſhall iſſue forth, to ſell ſuch lands or tenements for and towards ſatisfaction of what ſhall ſo remain due upon ſuch extent, as alſo towards ſatisfaction of all the reſt of the ſaid debts or damages,

(a) See after in chap. 60. a. ſect. 1, 7 Geo. II.

ges, in manner as is herein after directed concerning the ſale of other lands. *(b)*

Levari facias.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Sheriff or other officer, by a Writ of *levari facias*, to ſeize all lands in execution which are unimproved, and all ſuch lands and tenements which yield no yearly profit, and thereupon, with all convenient ſpeed, either with or without any Writ of *venditioni exponas*, to make public ſale thereof for the moſt they will yield, and pay the price or value of the ſame to the party towards ſatisfaction of his debt, damages and coſts: But before any ſuch ſale be made, the Sheriff or other officer ſhall cauſe ſo many writings to be made upon parchment or good paper, as the debtor or defendant ſhall reaſonably deſire or requeſt, or ſo many without ſuch requeſt as may be ſufficient to ſignify and give notice of ſuch ſales or vendues, and of the day and hour when, and the place where, the ſame will be, and what lands and tenements are to be ſo ſold, and where they lie, which notice ſhall be given to the defendant, and the ſaid parchments or papers fixt by the Sheriff or other officer in the moſt public place of each hundred in the county where the land lies, at leaſt ten days before ſale, and upon ſuch ſale the Sheriff or other officer ſhall make return thereof indorſed or annexed to the ſaid *levari facias*, and give the buyer a deed duly executed and acknowledged in court for what is ſold, as has been heretofore uſed upon the Sheriff's ſale of lands: But in caſe the ſaid lands and hereditaments ſo to be expoſed, cannot be ſold, then the officer ſhall make return upon the writ, That he expoſed ſuch lands or tenements to ſale, and the ſame remained in his hands unſold for want of buyers; which return ſhall not make the officer liable to anſwer the debt or damages contained in ſuch writ, but a Writ called *liberari facias*, ſhall forthwith be awarded and directed to the proper officer, commanding him to deliver to the party ſuch part

Ten days notice of ſale to be given.

The Sheriff to give the buyer a deed, &c.

Liberari facias.

or

(b) See the act paſſed October 28, 1788. chap. 189. b. to whom this writ may be directed.

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or parts of thoſe lands, tenements, or hereditaments, as ſhall ſatisfy his debt, damages and intereſt, from the time of the judgment given, with coſts of ſuit, according to the valuation of twelve men, to hold to him as his free-tenement in ſatisfaction of his debt, damages and coſts, or ſo much thereof as thoſe lands, by the valuation of twelve men as aforeſaid, ſhall amount unto; and if it fall ſhort, the party may afterwards have execution for the reſidue, againſt the defendant's body, lands or goods, as the laws of this government ſhall direct and appoint from time to time concerning other executions; all which ſaid lands, tenements, hereditaments and premiſes, ſo as aforeſaid, to be ſold or delivered by the Sheriff or officer aforeſaid, with all their appurtenances, ſhall and may be quietly and peaceably held and enjoyed by the perſon or perſons, or bodies politic, to whom the ſame ſhall be ſold or delivered, and by his and their heirs, ſucceſſors or aſſigns, as fully and amply, and for ſuch eſtate and eſtates, and under ſuch rents and ſervices, as he or they, for whoſe debt or duty the ſame ſhall be ſo ſold or delivered, might, could or ought to do at or before the taking thereof in execution.

Lands, &c. falling ſhort, execution may be had for the reſidue, &c.

Mortgagee in default of payment, may after one year ſue forth a writ of ſcire facias, &c.

SECT. 5. *And* foraſmuch as divers perſons have mortgaged their lands and tenements in this government for ſecuring the payment of monies, and ſome of them have died before the time of payment, and left others to ſucceed them that have proved inſolvent, and others have neglected to pay the mortgage-money, and ſo mortgages are become no effectual ſecurity, conſidering how low the annual profits of tenements and improved lands are here, and the diſcouragement which the mortgagees meet with, by reaſon of the equity of redemption remaining in the mortgagers; *Be it therefore enacted by the authority aforeſaid*, That when default or defaults have been or ſhall be made or ſuffered by any mortgager or mortgagers of any lands, tenements, or other hereditaments within this government, or by his, her, or their heirs, executors, adminiſtrators or aſſigns, of or in payment of the mortgage-money, or performance of the condition or conditions which they or any of them ſhould have

paid

paid or performed, or ought to pay or perform, in ſuch manner and form, and according to the purport, tenor and effect of the reſpective proviſo's, conditions or covenants comprized in their deeds of mortgage or defeazance, and at the days, times and places in the ſame deeds reſpectively mentioned and contained; *(c)* that in every ſuch caſe it ſhall and may be lawful to and for the mortgagee or mortgagees, and him, her, or them that grant the deeds of defeazance, and his, her or their heirs, executors, adminiſtrators and aſſigns, at any time, after the expiration of twelve months next enſuing, the laſt day whereon the ſaid mortgage-money ought to be paid, or other conditions performed as aforeſaid, to ſue forth a Writ or Writs of *ſcire facias*, which the Clerk of the Court of Common Pleas for the county where the ſaid mortgaged lands or hereditaments lie or be, is hereby required and impowered to make out and diſpatch, directed to the proper officer, requiring him by honeſt and lawful men of the neighbourhood, to make known to the mortgager or mortgagers, his, her or their heirs, executors or adminiſtrators, that he or they be and appear before the ſaid court or courts, to ſhew, if any thing he, ſhe or they have to ſay wherefore the ſaid mortgaged premiſes ought not to be ſeized and taken in execution for payment of the ſaid mortgage-money, with intereſt, or to ſatisfy the damages which the plaintiff in ſuch *ſcire facias* ſhall upon the record ſuggeſt for the breach of non-performance of the ſaid conditions; and if the defendant in ſuch *ſcire facias* appears, he or they may plead ſatisfaction or payment of part or all the mortgage-money, or any other lawful plea, in avoidance of the deed or deeds, as the caſe may require. But if the defendants in ſuch *ſcire facias* will not appear at the day whereon the ſaid writ ſhall be made returnable, then definitive judgment therein, as well as all other judgments to be given upon ſuch *ſcire facias*, ſhall be entered, that the plaintiff in ſuch *ſcire facias* ſhall have execution by

(c) See after in chap. 83. a. ſect. 7, 15 Geo. II. that no mortgage ſhall be good unleſs acknowledged, or proved and recorded within twelve months after the date, and in ſect. 9. defeazances, &c. to be null and void for a like neglect.

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by *levari facias*, directed to the proper officer, by virtue whereof the ſaid mortgaged premiſes ſhall be taken in execution, and expoſed to ſale, and upon ſale conveyed to the buyer or buyers thereof, and the principal money and intereſt, with all coſts and charges, rendered to the mortgagee or creditor; but for want of buyers, to be delivered to the mortgagee or creditor, in manner and form as is herein before directed, concerning other lands and hereditaments to be ſold and delivered upon executions for other debts or damages. And when the ſaid lands and hereditaments ſhall be ſo ſold or delivered, as aforeſaid, the perſon or perſons to whom they ſhall be ſo ſold or delivered, ſhall and may hold and enjoy the ſame, with their appurtenances, for ſuch eſtate or eſtates, as they were ſold or delivered, clearly, diſcharged and freed from all equity and benefit of redemption, and all other incumbrances made and ſuffered by the mortgagers, their heirs or aſſigns; and ſuch ſales ſhall be available in law, and the reſpective vendees, mortgagees, or creditors, their heirs and aſſigns, ſhall hold and enjoy the ſame, freed and diſcharged as aforeſaid. But before ſuch ſales ſhall be made, notice ſhall be given in writing, in manner and form as is herein above directed concerning the ſales of lands upon executions, any law or uſage to the contrary notwithſtanding.

And take out execution, and expoſe the mortgaged premiſes to ſale, &c.

which ſales ſhall be available in law, &c.

Overplus of the money ariſing on ſale of lands, &c. to be returned to the defendant.

SECT. 6. *Provided alſo, and be it further enacted by the authority aforeſaid*, That when any of the ſaid lands, tenements or hereditaments, which by the direction and authority of this act are to be ſold for payment of debts and damages in manner aforeſaid, ſhall be ſold for more than will ſatisfy the ſame debts or damages, and reaſonable coſts; then the Sheriff, or other officer, who ſhall make the ſale, muſt render the overplus to the debtor or defendants; and then, and not before, the ſaid officers ſhall be diſcharged thereof upon record in the ſame court where he ſhall make return of his proceedings concerning the ſaid ſales.

Such ſale not to create any farther eſtate than, &c.

SECT. 7. *Provided alſo*, That no ſale or delivery which ſhall be made by virtue of this act, ſhall be extended to create any further term or eſtate to the vendees,

vendees, mortgagees or creditors, than the lands or hereditaments ſo ſold or delivered, ſhall appear to be mortgaged for by the ſaid reſpective mortgages or defeazable deeds.

Lands, &c. ſo ſold, not to be reſtored on reverſion of judgment, &c.

SECT. 8. *Provided alſo*, That if any of the ſaid judgments which do or ſhall warrant the awarding of the ſaid writs of execution, whereupon any lands, tenements or hereditaments have been or ſhall be ſold, ſhall at any time hereafter be reverſed for any error or errors, then, and in every ſuch caſe, none of the ſaid lands, tenements, or hereditaments, ſo as aforeſaid taken or ſold, or to be taken or ſold upon executions, nor any part thereof, ſhall be reſtored, nor the Sheriff's ſale or delivery thereof avoided, but reſtitution in ſuch caſes only of the money or price for which ſuch lands were or ſhall be ſold.

See after in chap. 60. ſect. 7, 10. 7 Geo. II.

Proceeding in caſe the Sheriff die or be removed before a title is made.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That if any Sheriff or other officer, who have ſold, or hereafter ſhall, by virtue of any Writ or Writs of execution, *venditioni exponas*, or *liberari facias*, ſell or deliver any lands, tenements, or hereditaments, within this government, to any perſon, and ſhall happen to die, or be removed from his office, before he executes a deed or deeds for perfecting and completing the title of the purchaſer to the lands or tenements by him ſold, that then it ſhall and may be lawful, as well for the purchaſer as the creditor, at whoſe ſuit ſuch lands and tenements were taken in execution, to repreſent the truth of the caſe to the Juſtices of the Court of Common Pleas, to be held for the county where the lands lie: And if it ſhall appear to the ſaid courts, by the records and proceedings of the ſaid courts, that the lands and tenements have been taken and ſold in manner directed by the laws of this government, and that the officer who ſold the ſame, is dead or removed from his office, and no lawful deed executed for conveying the ſame to the purchaſer, it ſhall and may be lawful for the juſtices of the ſaid courts, and they are hereby required, in ſuch caſes, to cauſe an order of court to be made, thereby commanding and authoriſing the preſent Sheriff or Coroner, upon payment of the conſideration money for which ſuch lands and tenements were ſold by the former officer, to execute

ſuch

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ſuch lawful deed or deeds, and to do all other lawful acts for the conveying or delivering over the ſaid lands and tenements to the purchaſer or creditor, as the officer who ſold the ſame, could or ought to have done by virtue of the ſaid writ or writs, or by any law of this government; *(d)* and ſuch ſale or ſales, ſo made by virtue of any ſuch order of court, ſhall be available in law, and the reſpective vendees, mortgagees, or creditors, their heirs and aſſigns, ſhall hold and enjoy the ſame, freed and diſcharged as aforeſaid.

CHAP. XLVII. a.

An ACT *for appraiſement of goods taken in execution.* Repealed by "An act for regulating and eſtabliſhing fees." 9 Geo. III. chap. 204. a. in ſect. 39. See alſo an act with a like title, paſſed June 15, 1793, chap. 27. c. ſect. 32. for a repetition of repeal.

CHAP. XLVIII. a.

An ACT *againſt jurors abſenting themſelves, being lawfully ſummoned to attend the ſeveral Courts of Judicature within this government.*

BE *it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That all perſons, freemen within this government, being duly and legally ſummoned to appear

(d) See the act paſſed October 28, 1788. chap. 189. b. in what caſe ſuch proceeding as directed in this ſection is diſpenſed with.

pear at any court eſtabliſhed by law, at leaſt ten days before the holding ſuch court, to ſerve upon any jury, or any inqueſt, and ſhall neglect or refuſe to give their attendance, ſhall be fined by the reſpective court where they were ſummoned to attend, in any ſum not exceeding Twenty Shillings each court, for the uſe of the poor of the county where ſuch offender ſhall be convicted, unleſs at the next ſucceeding court they ſhall render a reaſonable excuſe for ſuch their abſence, to be allowed of by the judges or juſtices then preſent; and that all Grand Jury-Men, ſummoned as aforeſaid, ſhall ſerve the ſpace of one whole year, notwithſtanding their being ſworn at each reſpective court to attend that preſent ſervice only. And in caſe a ſufficient number, ſo ſummoned, ſhall not appear, the Sheriff ſhall have power to return ſuch other freeholders of that county as he ſhall judge fit for that preſent ſervice, to make up the ſaid number, although it be in time of court; and any perſon ſo ſummoned, and refuſing to ſerve accordingly, ſhall forfeit the ſum of Twenty Shillings, for the uſe of the poor, as above directed. *(a)*

Fine on jurors not attending.

Grand Jurymen to ſerve one year.

A ſufficient number not appearing, Sheriff may return others, &c.

CHAP. XLIX. a.

An ACT *for aſſigning bills and ſpecialties.*

FOR the encouragement of trade and commerce,

SECTION 1. *BE it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and of the province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That all bonds, ſpecialties, and notes in writing, made,

Bonds, ſpecialties, notes, &c. may be aſſigned, &c.

(a) See after chap. 94. a. 15 Geo. II. "An act directing and impowering the ſeveral Sheriffs within this government to ſummon a ſufficient number of freeholders to ſerve as jurors in the ſeveral counties thereof." Alſo, "An act for more certainly obtaining returns of juries and their better regulation," paſſed Feb. 2, 1793. chap. 8. c.

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or to be made payable to any perſon or perſons, his, her or their order or aſſigns, for any ſum of money, may by the perſon or perſons, to whom the ſame is or are made payable, be aſſigned, indorſed, or made over to any other perſon or perſons, who will accept the ſame; and that ſuch aſſignee or indorſee, their executors, adminiſtrators or aſſigns, may again, at their pleaſure, aſſign, indorſe, or make over the ſame bonds, ſpecialties or notes, to any other, and ſo *toties quoties* as any perſon ſhall be willing to accept of the ſame.

Aſſignees may aſſign again;

And ſue in their own name.

SECT. 2. And that ſuch aſſignee or aſſignees, indorſee or indorſees, their executors or adminiſtrators, may in their own name or names ſue for and recover the ſums of money contained in any bonds, ſpecialties or notes ſo aſſigned, indorſed, or made over, for his or their own uſe or uſes, and at their own coſts and charges, in like manner as the perſon or perſons to whom the ſame were at firſt made payable, might or could have done.

Aſſignment how to be made, &c.

SECT. 3. *Provided always*, That all aſſignments to be made of any bonds or ſpecialties, ſhall be under the hand and ſeal of the aſſigner, and at leaſt before two credible witneſſes; and that it ſhall not be in the power of the aſſigners or indorſers, their executors or adminiſtrators, to releaſe or diſcharge any of the debts or ſums of money due by the ſaid bonds, ſpecialties or notes, after the date of ſuch aſſignment; and that no releaſe, receipt, or diſcharge from the aſſigner, his executors or adminiſtrators, made after the date of ſuch aſſignment, ſhall be available to the obliger, or the perſons from whom the money was owing, his, her, or their executors or adminiſtrators.

CHAP.

CHAP. L. a.

An ACT *of privilege to a freeman.*

BE *it enacted by the honorable Patrick Gordon, esq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That no freeman within this government ſhall be taken or impriſoned, or diſſeized of his freehold or liberties, or be outlawed or exiled, or otherways hurt, damnified or deſtroyed, nor to be tried or condemned but by the lawful judgment of his twelve equals, or by the laws of England, and of this government.

CHAP. LI. a.

An ACT *againſt riots, routs, and unlawful aſſemblies.*

BE *it enacted by the honorable Patrick Gordon, esq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and of the province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if any perſons, to the number of three, or upwards, meet together within this government, with clubs, ſtaves, or other hurtful weapons, to the terror of any of the peaceable people or inhabitants of the ſame, and ſhall commit, or attempt to commit, violence or injury upon the perſon or goods of any of the ſaid inhabitants, they and every of them ſhall be reputed and puniſhed as rioters, and the act of terror or violence, or attempt to do violence, ſhall be accounted and deemed a riot; and ſuch perſons, ſo offending, as likewiſe all other riotous and unlawful aſſemblies, ſhall be adjudged and puniſhed according to the laws

What ſhall be deemed a riot.

CHAP. LI.

laws and ſtatutes of Great Britain againſt riots and unlawful aſſemblies. And whoſoever ſhall introduce into this government any riotous and unlawful ſports and games, as prizes, ſtage-plays, maſks or revels, and ſhall practiſe the ſame, and be lawfully convicted thereof, ſuch perſon or perſons ſhall for every ſuch offence be reputed breakers of the peace, and ſhall forfeit and pay Twenty Shillings, or ſuffer ten days impriſonment at hard labour in the houſe of correction.

Riotous ſports, Revels, &c. how puniſhed,

CHAP. LII. a.

An ACT *againſt ſpeaking in derogation of courts.*

Penalties on ſpeaking in derogation, &c.

BE *it enacted, by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if any perſon or perſons at any time or times hereafter, ſhall write or ſpeak any thing in derogation of any ſentence or judgment given in any Court of Record within this government, by ſaying, ſuch ſentence or judgment was given corruptly, partially or unjuſtly, and being thereof legally convict, ſhall forfeit for ſuch offence any ſum not exceeding Five Pounds, one half to the informer, and the other to the Governor for the ſupport of government; and in caſe any perſon or perſons ſhall commit any rudeneſs, or be guilty of any miſdemeanour in the ſaid courts, during the ſitting thereof, ſuch perſon, ſo offending, ſhall be fined, at the diſcretion of the ſaid court, in any ſum not exceeding Five Pounds, for the uſes aforeſaid.

Rudeneſs or miſdemeanor in court how puniſhed.

CHAP.

CHAP. LIII.

CHAP. LIII. a.

An ACT *againſt defacers of charters, and counterfeiting hands and ſeals.*

WHEREAS the ſecurity of titles and property in a great meaſure depends on the ſafety and certainty of writing and records,

BE it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That whoſoever ſhall counterfeit the hand and ſeal, or hand or ſeal of any perſon, with an intent to defraud or hurt another, or ſhall counterfeit any public ſeal, or forge, deface, corrupt or embezzle any charters, gifts, grants, bonds, bills, wills, conveyances, or contracts, or ſhall deface or falſify any inrollments, regiſtry, or record, within this government, and ſhall be thereof legally convict, ſhall ſuffer the like pains and penalties as by the laws of that part of Great Britain called England, is provided againſt ſuch offences, for the time being.

Puniſhment of counterfeiting, forging, &c.

CHAP. LIV. a.

An ACT *for the eſtabliſhing courts of law and equity within this government.*

SECTION 1. BE *it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor, of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That there ſhall be a court, ſtiled, *The General Quarter Seſſions of the Peace and Goal Delivery*, holden and kept four times in every year in each county of this government, (*viz.*) at

Courts of Quarter Seſſions to be held four times a year in each county.

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at New-Caſtle, for the county of New-Caſtle, on the third Tueſday in the months called February, May, Auguſt and November. At Dover, for the county of Kent, on the ſecond Tueſday in every of the ſame months. And at Lewes-Town, for the county of Suſſex, on the firſt Tueſday in every of the ſaid months. And that there ſhall be a competent number of juſtices in every of the ſaid counties, nominated and authoriſed by the Governor, or Lieutenant Governor for the time being, by commiſſion under the broad ſeal of this government; which ſaid juſtices, or any three of them, ſhall and may hold the ſaid General Seſſions of the Peace and Goal Delivery, according to law, and as fully and effectually as any Juſtices of the Peace, Juſtices of the Aſſize, and Juſtices of Oyer and Terminer, or of Goal Delivery, may or can do. *(a)*

The Governor to commiſſionate juſtices for that purpoſe.

Which juſtices may hold ſpecial Seſſions,

SECT. 2. *And be it further enacted by the authority aforeſaid*, That the ſaid Juſtices of the Peace of the reſpective counties, or any three of them, may, purſuant to their ſaid commiſſions, hold ſpecial and private ſeſſions, when and as often as occaſion ſhall require; and that the ſaid juſtices, and every of them, ſhall have full power and authority, in or out of ſeſſions, to take all manner of recognizances and obligations to the King, *(b)* as any Juſtices of the Peace of Great Britain may or can, or uſually do; and all recognizances for the peace, behaviour or appearances, which ſhall be taken by any of the ſaid juſtices out of ſeſſions, ſhall be certified into their ſaid General Seſſions of the Peace, to be holden next after their taking thereof, and every recognizance taken before any of them for ſuſpicions of any manner of felony or other crime, not triable in the ſaid Court of Quarter Seſſions of the Peace and Goal Delivery, ſhall

and take recognizance out of ſeſſions;

which ſhall be certified into the next Quarter Seſſions, &c.

(a) For the alterations made in this clauſe, See an act paſſed February 22, 1777. chap. 5. b. ſect. 5. article 6. ſect. 1. 19. of the conſtitution of "The State of Delaware adopted in June 1792." "An act to regulate the courts of this ſtate" paſſed June 14, 1793. chap. 19. c. and an act to alter and amend the ſame laſt act, chap. 61. c. paſſed February 7, 1794.

(b) But now in the name of "the State of Delaware," by ſect. 21, of article 6. of the conſtitution aforeſaid, of June 1792, and an act of February 22, 1777. chap. 2. b. ſect. 3.

ſhall be certified before the Juſtices of the Supreme Court of Oyer and Terminer, at their next ſucceeding court to be holden next after the taking thereof, *(c)* without concealment, detainment or imbezzeling of the ſame: But in caſe any perſon or perſons ſhall forfeit his or their recognizance of the peace, behaviour or appearance, for any cauſe whatſoever, then the Juſtices of the ſaid Court of Quarter Seſſions, ſhall make a record of every ſuch default or cauſe of forfeiture, and iſſue Writs of *ſcire facias*, and all ſuch other proceſs as ſhall be needful for the recovery of the ſaid forfeitures.

Quarter Seſſions may continue three days in each county.

SECT. 3. *Provided always*, That the ſaid Courts of General Quarter Seſſions of the Peace, may be kept and continued for the ſpace of three days in the counties of New-Caſtle, Kent, and Suſſex, aforeſaid, reſpectively, at any of the ſaid times herein before appointed for the holding and keeping of the ſaid courts and ſeſſions in each of the ſaid counties.

Writs under the proper ſeal of one county, may be directed to the officers of another county, &c.

SECT. 4. *And* to the end that perſons indicted or outlawed for felonies or other offences in one county or town corporate, who dwell, remove, or be received into another county or town corporate, may be brought to juſtice, *Be it further enacted*, That the ſaid juſtices, or any of them, ſhall and may direct their writs or precepts, under the ſeal of the proper county to which they belong, to all or any of the Sheriffs or other officers of the ſaid counties or towns corporate within this government, where need ſhall be, to take ſuch perſons indicted or outlawed, and that it ſhall and may be lawful to and for the ſaid juſtices, and every of them, to iſſue forth *ſubpœna's* and other warrants, under their reſpective hands and ſeals, into any county or place of this government, for ſummoning or bringing any perſon or perſons to give evidence in and upon any matter or cauſe whatſoever, now or hereafter examinable, or in any wiſe triable before them, or any of them, under ſuch pains and penalties

Subpœna's to be iſſued for ſummoning evidence.

(c) See the act to regulate the courts in this ſtate, chap. 19. c. ſect. 5. paſſed June 14, 1793. and the act to alter and amend the ſame. chap. 61. c. ſect. 4. paſſed February 7, 1794.

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penalties as by *ſubpœna's* or warrants of that kind uſually are or ought by law to be granted or awarded.

Perſons aggrieved may have Writs of Error, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall find him or themſelves aggrieved with the judgment of any of the ſaid Courts of General Quarter Seſſions of the Peace and Goal Delivery, or any other Courts of Record within this government, it ſhall and may be lawful to and for the party or parties ſo aggrieved, to have his or their Writ or Writs of Error, *(d)* which ſhall be granted them of courſe, in manner as other Writs of Error, to be granted and made returnable to the ſaid Supreme Court of this government. *(e)*

Supreme Courts to be held twice a year in each county. Repealed and ſupplied in chap. 167. Poſt.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That there ſhall be holden and kept a Court of Record twice in every year, in each of the counties of this government, that is to ſay, on the fifth day of October, and on the twenty-firſt day of April at New-Caſtle, for the county of New-Caſtle; and on the ninth day of October and the twenty-fifth day of April at Dover, for the county of Kent; and on the thirteenth day of October and the twenty-ninth day of April at the town of Lewes, for the county of Suſſex; and if the ſame days, or either of them, happen to be the firſt day of the week, then, in ſuch caſe, the ſaid courts ſhall be held on the next days following, which ſaid court ſhall be called and ſtiled the Supreme Court of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware; and that there ſhall be three perſons, of known integrity and ability,

By three judges to be commiſſionated by the Governor, &c.

commiſſionated by the Governor, or his Lieutenant for the time being, by ſeveral diſtinct patents or commiſſions

(d) By the act to regulate the courts in this ſtate, chap. 19. c. ſect. 8. paſſed June 14, 1793, No ſuch Writ or Writs of Error lie to the Court of General Quarter Seſſions and Goal Delivery, for removal of any indictment to be found or pending, &c, therein, exſept for capital offences, after the firſt Tueſday in October then next. And by the ſame act, ſect. 7. No ſuch Writ or Writs of Error lie to the Court of Common Pleas, in actions commenced thereafter the time aforeſaid.

(e) The nine following ſections of this act, ſolely relate to the eſtabliſhing a Supreme Court within this government, then ſtiled that of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, after the Delaware State, but now "The State of Delaware," which were all repealed and ſupplied by "An act for the better regulation of the Supreme Court within this government." Chap. 167. a. paſſed April 28, 1760

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missions under the great seal of this government, to be judges of the said courts, one of whom shall be distinguished in his commission by the name of Chief Justice, and every of the said justices shall have full power and authority, by virtue of this act, when and as often as there may be occasion, to issue forth Writs of *Habeas Corpus*, *Certiorari*, and Writs of Error, and all Remedial Writs or process returnable to the said court, and grantable by the said judges, by virtue of their office, in pursuance of the powers and authorities hereby given them.

Who have power to issue Writs of Habeas Corpus, &c.

Sect. 7. *And* that the said judges, or any two of them, shall have full power to hold the said courts, and therein to hear and determine all causes, matters and things cognizable in the said court, and also to hear and determine all and all manner of pleas, plaints and causes in law or equity, which shall be removed or brought there from the respective General Quarter Sessions of the Peace, to be held for the respective counties of New-Castle, Kent, and Sussex, by Writs of *Certiorari*, Writs of Error or Appeal, or from any other court of law or equity of this government, by virtue of any of the said writs or appeal, after final judgment or decree shall be given in the said courts, and to examine and correct all and all manner of errors of the justices and magistrates of this government, in their judgment, process and proceedings, in the said courts, as well in all pleas of the crown, as in all pleas real, personal, and mixt, and suits in equity, and thereupon to reverse or affirm the said judgments or decrees, as the law doth or shall direct, and shall be appealable to equity, and also to examine, correct, and punish the contempts, omissions and neglects, favours, corruptions and defaults of all or any of the Justices of the Peace, Sheriffs, Coroners, Clerks and other officers within the said respective counties: And also shall award process for levying all such fines, forfeitures and amerciaments, which shall be left, taxed and set in the said Supreme Courts, and not paid to the uses they are or shall be appropriated: And generally shall minister justice to all persons, and exercise the jurisdictions and powers hereby granted them, concerning all and singular the

And to hear and determine causes, &c. Repealed and supplied in chap. 167. a. post.

And to correct the errors of justices, punish the faults of officers, award process for levying fines, &c.

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premiſes, according to law, as fully and amply to all intents and purpoſes whatſoever, as the Juſtices of the Courts of King's Bench and Common Pleas at Weſtminſter, or any of them, may or can do upon Writs of Error, and other remedial writs iſſuing out of the ſaid courts; ſaving to all and every perſon or perſons, his, her or their heirs, executors and adminiſtrators, their right of appeal from the final ſentence, judgment or decree of any court within this government, to his Majeſty in council, or to ſuch court or courts, judge or judges, as by our Lord the King, his heirs or ſucceſſors, ſhall be appointed in that part of Great Britain called England, to receive, hear, and judge of appeals from his Majeſty's plantations.

and generally miniſter juſtice as in the King's bench in Great Britain.

Saving to all perſons their right of appeal.

Appellant to give bond, &c.

SECT. 8. *Provided*, The perſons appealing, ſhall, upon entering his or their appeal in the court where the ſentence, judgment or decree ſhall be given, in this government, pay all the coſts before that time expended in the proſecution or defending the ſaid ſuit, and ſhall further enter into bond, with two good and ſufficient ſecurities in double the ſum recovered (in the ſaid court) to the defendant in the appeal, conditioned to proſecute the ſaid appeal with effect within the ſpace of eighteen months next after the entry of ſuch appeal, and to ſatisfy the judgment of the court from whence he appeals; and further to pay all ſuch coſts and damages as ſhall be adjudged to him to pay, in caſe a ſentence, judgment or decree paſs againſt the ſaid appellant, or in caſe he, ſhe, or they, fail to proſecute their appeal with effect; and execution ſhall be ſuſpended until the final determination of ſuch appeals, unleſs good and ſufficient ſecurity be given by the appellee, to make ample reſtitution of all that the appellant ſhall have loſt by means of ſuch judgment or decree, in caſe, upon the determination of ſuch appeal, ſuch decree or judgment ſhould be reverſed, and reſtitution awarded to the appellant.

Repealed and ſupplied in chap. 167. a. poſt.

Execution to be ſuſpended, &c. unleſs the appellee give ſecurity, &c.

Stile of the writs. Repealed and ſupplied in chap. 167. a. poſt.

SECT. 9. *And be it further enacted*, That all the ſaid writs ſhall be granted of courſe, and made in the name and ſtile of the King, his heirs and ſucceſſors, and ſhall bear teſt in the name of the Chief Juſtice

for

for the time being, but if he be the plaintiff or defendant, in the name of one of the other juſtices, and ſhall be ſealed with the judicial ſeal of the ſaid court, ſigned by one of the judges, and made returnable to the next court after the date of ſuch writ.

No Judge of the Supreme Court ſhall ſit in inferior courts. Repealed and ſupplied in chap. 167. a. poſt.

SECT. 10. *Provided always*, That none of the Judges of the ſaid Supreme Court, ſhall ſit judicially in any of the ſaid Courts of Common Pleas, Quarter Seſſions, or any other inferior court of this government.

The ſaid judges to deliver goals, &c. Repealed and ſupplied in chap. 167. a.

SECT. 11. *And be it further enacted by the authority aforeſaid*, That the ſaid Judges of the ſaid Supreme Court, or any two of them, ſhall have power, and are hereby authoriſed and impowered, from time to time, when there ſhall be occaſion, to deliver the goals, of all perſons which now are, or ſhall hereafter be committed for treaſons, murders, and ſuch other crimes as by the laws of this government now are, or hereafter ſhall be made capital, or felonies of death, as aforeſaid, and for that end, from time to time, to iſſue forth ſuch neceſſary precepts and proceſs, and force obedience thereunto, as Juſtices of Aſſize, Juſtices of Oyer and Terminer and Goal Delivery, may or can do in the realm of Great Britain.

Fees in the Supreme Court to be double, &c. Repealed and ſupplied in chap. 167. a.

SECT. 12. *Provided always*, That the fees due to the judges and officers of the ſaid court, for hearing any of the ſaid capital offences, for any thing done there, ſhall be double the fees uſually taken in the General Quarter Seſſions held in any of the ſaid counties in this government; any thing herein contained, or in any other law of this government, to the contrary notwithſtanding.

No cauſe now depending before the Judges of the Supreme Court ſhall be diſcontinued, &c. Repealed and ſupplied in chap. 167. a.

SECT. 13. *Provided always, and be it further enacted*, That no cauſe removed from any of the other courts of this government into the ſaid Supreme Court, or any other matter legally removed from any other court, and now depending before the judges of the ſaid court, ſhall be diſcontinued, but that the ſame may be heard, tried, and determined before the ſaid judges, as fully as the ſame could have been heard, tried, and determined before the making of this act; any thing herein contained to the contrary in any wiſe notwithſtanding.

SECT.

CHAP. LIV.

Notice to be given the judges when there ſhall be any cauſes, &c. Repealed and ſupplied in chap. 367. a,

SECT. 14. *Provided always*, That nothing herein contained, ſhall oblige the Judges of the Supreme Court, nor any of them, to go their circuit, or hold a court in any county of this government, but when there ſhall be ſome cauſe removed from ſome inferior courts by Writ of Error, *Habeas Corpus*, *Certiorari* or Appeal, or ſome other matter or cauſe cognizable by them, which ſhall require their coming, whereof the Clerks of the reſpective counties from whence ſuch cauſe or cauſes ſhall be removed, ſhall give notice to each of the judges, after any ſuch Writ of Error, *Habeas Corpus*, *Certiorari* or Appeal ſhall be made or brought, at leaſt fourteen days before the time of holding the ſaid Supreme Court; and that the ſaid judges, upon notice given them, ſhall cauſe the Sheriff of the reſpective county where ſuch Supreme Court is to be held, forthwith to warn the Juſtices, Coroners and Conſtables to give their attendance at the ſaid Supreme Court, to be held according to the directions of this act.

Juſtices to be commiſſionated to hold Courts of Common Pleas four times a year in each county;

SECT. 15. *And be it further enacted by the authority aforeſaid*, That a competent number of perſons ſhall be commiſſionated by the Governor, or his Lieutenant for the time being, under the broad ſeal of this government, who ſhall hold and keep a Court of Record in every county of this government, which ſhall be ſtiled and called, *The County Court of Common Pleas*, and ſhall be holden four times in every year, at the times and places where the General Quarter Seſſions of the Peace are directed, and ſhall be reſpectively kept in the ſaid counties, (that is to ſay) at New-Caſtle, for the county of New-Caſtle, on the third Tueſday of February, May, Auguſt and November; And at Dover, for the county of Kent, on the ſecond Tueſday in every of the ſame months: And at Lewes, for the county of Suſſex, on the firſt Tueſday in every of the ſaid months; which juſtices, or any three of them (according to the tenor and direction of their commiſſions) ſhall hold Pleas of Aſſize, *ſcire facias*, replevins, informations and actions upon penal ſtatutes, and hear and determine all and all manner of pleas, actions, ſuits and cauſes, civil, real, perſonal and mixt, according to the

the laws and conſtitutions of this government, as fully and amply to all intents and purpoſes, as the Juſtices of the King's Bench, Common Pleas, and Exchequer in England, or any of them, may or can do. *(f)*

Who are impowered to iſſue ſubpœna's &c.

SECT. 16. *And be it further enacted by the authority aforeſaid*, That every of the ſaid juſtices ſhall, and are hereby impowered, to iſſue forth *ſubpœna's* under their reſpective hands and ſeals into any county or place of this government, for ſummoning and bringing any perſon or perſons to give evidence in and upon the trial of any matter or cauſe whatſoever, depending before them, or any of them, under ſuch pains and penalties as by the rules of the common law and courſe and practice of the King's courts at Weſtminſter are uſually appointed.

And to grant ſpecial courts.

SECT. 17. *And be it further enacted by the authority aforeſaid*, That if any defendant or defendants in any ſuit or action, by reaſon of his or their ſudden departure out of this government, ſhall require a more ſpeedy determination in ſuch action or ſuit, than can be obtained by the common or ordinary rules of proceeding in any of the ſaid county courts of Common Pleas in this government, the ſaid juſtices, upon application made, ſhall grant to ſuch defendant or defendants, ſpecial courts, and ſhall proceed to hear and determine the premiſes according to the courſe and practice of ſaid county courts of Common Pleas, for the uſual fees therein taken.

The defendant to give bail, &c.

SECT. 18. *Provided always*, That before ſuch juſtices ſhall grant ſuch ſpecial courts, or proceed to hear and determine the premiſes, the defendant ſhall give bail to the plaintiff's action by recognizance, according to the courſe and practice of the ſaid County Courts of Common Pleas.

Writs of enquiry how to be executed.

SECT. 19. *And* to prevent the exceſſive charges that have ſometimes ariſen upon executing writs of enquiry

(f) For the exiſting alterations in this clauſe, ſee the conſtitution of "The State of Delaware," of June 1792, in article 6. The act to regulate the courts of this ſtate, chap. 19. c. paſſed June 14, 1793. And the act to alter and amend the ſame, chap. 61. c. paſſed February 7, 1794, and for additional powers, ſee "An act for marking and bounding of lands." chap. 117. c. paſſed Feb. 19, 1796.

CHAP. LIV.

enquiry for damages, *Be it enacted*, That the juſtices who give any interlocutory judgment, ſhall (at the motion of the plaintiff or his Attorney in the action where the judgment is given) make an order in the nature of a writ of enquiry, to charge the jury attending at the ſame or next court after ſuch judgment is given, to enquire of the damages and coſts ſuſtained by the plaintiff in ſuch action, which enquiry ſhall be made and evidence given in open court, and after the inqueſt have conſidered thereof, they ſhall forthwith return their inquiſition under their hands and ſeals, whereupon the court may proceed to judgment, as upon inquiſitions of that kind returned by the Sheriffs.

Teſtatum Executions may be awarded where needful.

SECT. 20. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for the Juſtices of the ſaid reſpective Courts of Common-Pleas within this government, to award a *Teſtatum* Execution in all caſes where the ſame is needful, and is or ought to be done by the practice and courſe of the laws of England, and to amerce the Sheriffs or other officers neglecting or refuſing to execute and make return of ſuch writ or writs, according to the direction of the ſaid writs.

Courts of Equity to be held 4 times a year.

SECT. 21. *And be it further enacted by the authority aforeſaid*, That there ſhall be a Court of Equity, held by the Juſtices of the ſaid reſpective County Courts of Common Pleas four times a year at the reſpective places, and near the ſaid times as the ſaid Courts of Common Pleas are held in every county of this government; *(g)* and that the Prothonotary of the Common Pleas ſhall be the Regiſter of the ſaid Courts of Equity in every county; which ſaid juſtices, or any three of them, within the limits of their commiſſions and authorities to them appointed as is aforeſaid, ſhall have full power, and are hereby impowered and authoriſed, to hear and decree all ſuch matters and

Prothonotary of the Common Pleas to be Regiſter.

Power of the Court of Equity.

(g) By the conſtitution of the ſtate of Delaware of June 1792, in article 6. ſect. 14. The equity juriſdiction aforeſaid, is ſeparated from the common law courts, and veſted in a Chancellor, with an exception in caſes wherein he is intereſted. — For the time of holding ſuch Court of Chancery, ſee the act to regulate the courts in this ſtate, chap. 19, c. paſſed June 14, 1793.—An act paſſed February 7, 1794. chap. 61. c. ſect. 2, and another act paſſed February 7, 1795. chap. 79, c.

and cauſes of equity as ſhall come before them in the ſaid courts, where the proceedings ſhall be as heretofore by bill and anſwer, with ſuch other pleadings as are neceſſary in Chancery Courts, and proper in theſe parts, with power alſo for the ſaid Juſtices of the reſpective courts of equity, to iſſue forth all manner of *Subpœna's*, and all other proceſs as may be needful to oblige and force defendants to anſwer ſuits there, as alſo to award commiſſions for taking anſwers and examining witneſſes, *(b)* and to grant injunctions for ſtaying ſuits in law, and ſtopping waſtes, as there may be occaſion, obſerving, as near as may be, the rules and practice of the High Court of Chancery in Great Britain, with powers to make orders and award all manner of proceſs, and do all other things neceſſary for bringing cauſes to hearing, and to force obedience to their decrees in equity, which may be by impriſonment of bodies, or ſequeſtration of lands, and admit bills of reviver, as the caſe may require.

Caſes in which proceſs may be awarded out of Courts of Equity into other counties.

SECT. 22. *And* if any defendant or defendants in any ſuit, which ſhall be commenced againſt them in one of the ſaid counties, ſhall, after he or they are ſerved with a *ſubpœna*, or other proceſs, remove into any other county of this government, all proceſs neceſſary to bring ſuch defendants to anſwer, and all commiſſions for taking of their anſwers and examining witneſſes, with all other proceſs neceſſary to bring ſuch cauſes to a hearing, ſhall and may be awarded out of the court where thoſe cauſes or ſuits ſhall be firſt commenced, into any other county of this government, as the caſe may require.

Before ſubpœna's or proceſs for appearance iſſue, bill to be filed, &c.

SECT. 23. *Provided always*, That no *ſubpœna's*, or other proceſs for appearance, ſhall iſſue out of any of the ſaid courts of equity, till the bill is filed with the proper officer, except bill for injunctions to ſtay waſtes or ſuits at law.

SECT. 24. *Provided alſo* That if any perſon or perſons

(b) See the act of the 26 Geo. II. poſt. chap. 144. a. giving this court a power in a ſummary method, to perpetuate the teſtimony of witneſſes relating to the bounds of lands. See alſo an act paſſed February 2, 1793. chap. 3. veſting in the court of Chancery the care of ideots and lunatics.

CHAP. LIV.

Persons aggrieved, may appeal to the Supreme Court, &c.

sons shall find themselves aggrieved with any decree or sentence made or given by the said justices in equity, it shall and may be lawful to and for him or them so grieved, forthwith to appeal or have recourse to the Judges of the Supreme Court, *(i)* to set forth his or their case by petition, bill or plaint, so as the sum adjudged to be paid by such decree, amount to Ten Pounds, or upwards, and so as he or they, so appealing, first pay down the court charges, and either satisfy the decree or sentence so given, or deposit with the justices the sum awarded, or give sufficient security to prosecute the said appeal, and to pay all costs and damages that shall be awarded against him or them; and then, albeit the party appealing be imprisoned upon that decree or sentence, he shall be enlarged; and that such appeals shall supersede all other process upon the decree or sentence appealed from, till the same be heard, tried or dismissed in the said Supreme Court.

Matters determinable by common law not to be heard in Courts of Equity.

SECT. 25. *Provided also*, That nothing herein contained shall give the said justices any power or authority to hear, decree or determine in equity, any matter, cause or thing, wherein sufficient remedy may be had in any other court or before any other magistrate or judicature in this government, either by the rules of the common law, or according to the tenor and directions of the laws of this government, but that when matters determinable at common law shall be brought before them in equity, they shall refer or remit the parties to the common law; and when matters of fact shall happen to arise upon their examination or hearing of the matters and causes to be heard and determined in the said court, then, and in every such case, they shall order the matter of fact to issue and trial at the Court of Common Pleas for the proper county where the fact ariseth, before they proceed to sentence or decree in the said Court of Equity.

When matters of fact arise, they are to be tried in the Courts of Common Pleas.

SECT. 26. *And be it further enacted by the authority aforesaid,*

(i) By the constitution of June 1792, aforesaid, an appeal from the Court of Chancery, as therein established, is given to "The High Court of Errors and Appeals," constituted in article 7, of the same system.

CHAP. LIV.

Attornies how to be admitted, &c.

aforeſaid, That there may be a competent number of perſons of an honeſt diſpoſition, and learned in the law, admitted by the juſtices of the ſaid reſpective courts, to practice as Attornies there, who ſhall behave themſelves juſtly and faithfully in their practice, and before they are ſo admitted, ſhall take the following qualification, (*viz.*) (*k*)

The qualification.

THOU ſhalt behave thyſelf in the Office of an Attorney within the court according to the beſt of thy learning and ability, and with all good fidelity as well to the court as to the client: Thou ſhalt uſe no falſehood, nor delay any perſon's cauſe through lucre or malice.

Penalty on miſbehaviour.

SECT. 27. *And* if they miſbehave themſelves therein, they ſhall ſuffer ſuch penalties and ſuſpenſions as Attornies at Law in Great Britain are liable to in ſuch caſes. By which Attornies actions may be entered, and writs, proceſs, declarations and other pleadings; and records in all ſuch actions and ſuits as they ſhall reſpectively be concerned to proſecute or defend from time to time, may be drawn, and with their names and proper hands ſigned; which ſaid Attornies, ſo admitted, may practice in all the courts of this government, without any further or other licence or admittance.

Buſineſs of Attornies.

Non-reſident Attornies ſhall not plead without a licence from the Governor, or paying 50 s. per court.

SECT. 28. *Provided always*, That no perſon, not being an inhabitant of this government, or of the province of Pennſylvania, ſhall be permitted to plead in any court or courts within this government, without licence firſt obtained from the Governor for the time being, by the recommendation of the Juſtices of one of the County Courts of this government; unleſs ſuch lawyer or lawyers ſhall obtain the court's leave, and pay to the ſaid court, for the uſe of the Governor, the ſum of Fifty Shillings for each court he ſhall ſo plead, until licenſed.

(*k*) See before in chap. 13. 2.

CHAP. LV.

CHAP. LV. a.

13 Geo. I. *An* ACT *for the further ſecuring the adminiſtration of the government.* Supplied and rendered void, firſt by the ſyſtem of government as framed for this ſtate in 1776, and after by the conſtitution of the State of Delaware, of June, 1792.

CHAP. LVI. a.

9 Geo. I. *An* ACT *for keeping in good repair the dykes and ſluices belonging to the marſh on the South-weſt end of the town of New-Caſtle, commonly called, the town-marſh.* Obſolete. The whole of which marſh became the property of one perſon *anno* 1766, and hath ſince continued to be owned by a ſingle perſon.

CHAP. LVII. a.

4 Geo. II. *An* ACT *for the keeping in good repair the dyke and ſluices belonging to the marſhes at Swanwick, in the tenor and occupation of Jehu Curtis, Adam Hay, executor of John Silſby, Cornelius Kettle, and Samuel Eves.* Private. Supplied, ſee chap. 136. b.

CHAP. LVIII. a.

4 Geo. II. *An* ACT *for bailing priſoners, and about impriſonments.*

BE *it enacted by the honorable Patrick Gordon, eſq. by the royal approbation Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, and by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the*

the ſame, That all priſoners ſhall be bailable by one or more ſufficient ſureties to be taken by one or more of the judges or juſtices that have cognizance of the fact, unleſs for ſuch offences as are or ſhall be made felonies of death by the laws of this government, and that gaolers ſhall not oppreſs their priſoners, under a penalty not exceeding Five Pounds, for each offence, for the relief of the poor of the county where ſuch offence or offences ſhall be committed, to be recovered, upon due proof thereof, before the juſtices of the ſame county, in the Quarter Seſſions; and that all priſoners ſhall be free as to room, and all priſoners ſhall have liberty to provide themſelves with bedding, food, and other neceſſaries, during their impriſonment; and that the public allowance ſhall be Six-pence per day, and no more; *(a)* and that the reſpective priſons ſhall be work-houſes, until others are provided, for felons, thieves, vagrants, and looſe and idle perſons, whereof one ſhall be in each reſpective county of this government; *(b)* and that no perſon or perſons ſhall be obliged to anſwer to any indictment or preſentment, unleſs the proſecutor's name be indorſed thereon; and if any perſon or perſons ſhall be impriſoned or proſecuted without probable cauſe, he, ſhe, or they ſhall have double damages againſt the informer or proſecutor, to be recovered by action of common law.

CHAP. LIX. a.

An ACT *for regulating pedlars within the government of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware.* 4 Geo. II.

WHEREAS of late many idle and vagrant perſons are come into this government, and under pretence of being hawkers or pedlars, and carrying Preamble.

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(a) See after in chap. 76. a. ſect. 13, 14, 15, 16, 17, other proviſion in favour of priſoners.

(b) See before in chap. 22. a. ſect. 19. and after in chap. 146. a. paſſed October 30, 1753.

CHAP. LIX. 4 Geo. II.

ing goods from houſe to houſe within the ſame to ſell, have greatly impoſed upon many people, as well in the quality as in the price of the goods. *And whereas* many of the perſons now following the buſineſs or employment of pedlars, hawkers or petty chapmen, within this government, have no fixt or ſettled place of reſidence, and thereby are exempted from paying taxes and contributing towards the ſupport of this government proportionably with others the inhabitants thereof. For remedying which inconveniencies, and to the end that no perſon may be admitted and allowed to follow the buſineſs of hawkers or pedlars within this government, but perſons of known honeſty and civil behaviour,

No perſon to follow pedling, &c. until they are recommended, licenſed, and have given bond, &c.

SECTION 1. *BE it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That after the firſt day of January next, no perſon or perſons whatſoever, ſhall follow or employ him, her, or themſelves in the buſineſs or employment of a hawker, pedlar or petty chapman, or in going from town to town, or to other men's houſes, and travelling with horſe or horſes, aſs or aſſes, mule or mules, or otherways, within this government of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, (except as herein after is excepted) or carry to ſell or expoſe to ſale any goods, wares or merchandizes, within the government aforeſaid, until ſuch perſon or perſons ſhall have obtained a recommendation from the Juſtices of the County Court, where he or ſhe dwells, certifying their opinion of the honeſty of the perſon recommended, and that he or ſhe is a liver within this government, and intends to travel with one, two or more horſe or horſes, or other beaſts of burden, or on foot, and ſhall thereupon have obtained a licence from the Governor, and ſhall have given bond *(a)* in the Prothonotary's office of the County

(a) By an act paſſed February 2, 1793, chap. 5. c. intituled "An act to enjoin certain duties to be performed by the Secretary of ſtate and for other purpoſes,"

CHAP. LIX.

4 Geo. II.

ty Court, in his Majeſty's name, with one ſurety at leaſt, in any ſum not exceeding Forty Pounds; conditioned that ſuch perſon or perſons ſhall be of good behaviour, during the continuance of the ſaid licence, and ſhall well and duly pay and ſatisfy all ſuch taxes and duties as ſhall be legally aſſeſſed upon him, her, or them, within the county where he, ſhe, or they ſhall obtain the ſaid recommendation; for which licence there ſhall be paid to the Governor, the ſum of Twenty-five Shillings, *(b)* by every perſon obtaining a licence to travel with a horſe, aſs, mule, or other beaſt of burden, and the ſum of Fifteen Shillings for every perſon licenſed to travel on foot.

Fees to be paid for licences.

SECT. 2. *And* if any perſon or perſons, not being qualified as aforeſaid, ſhall be found travelling, hawking and pedling from houſe to houſe, to ſell goods as a hawker, pedlar or petty-chapman, he or ſhe ſo offending, if travelling with one or more horſes, ſhall forfeit the ſum of Fifteen Pounds, and if travelling on foot, the ſum of Ten Pounds, one moiety thereof to the Governor, *(c)* for the ſupport of government, and the other moiety to the perſon who will ſue for the ſame, by any action of debt, bill, plaint or information, in any Court of Record within this government, wherein no eſſoign, protection or wager of law, nor more than one imparlance, ſhall be allowed.

Penalties on perſons not qualified, travelling as pedlars, &c.

SECT. 3. *And* that every perſon ſo trading, who, upon demand made by any Juſtice of the Peace, Conſtable, or other Officer of the Peace, of any town, place or county within this government, where he or ſhe ſhall ſo trade, ſhall refuſe to produce and ſhew unto ſuch Juſtice or Officer of the Peace, his or her licence for ſo trading, to be granted as aforeſaid, that then the

Penalty on pedlars, &c. that refuſe to ſhew their licence.

in ſect. 6. it is provided that all bonds, &c. to be given for the faithful diſcharge of any office, commiſſion or public truſt in the appointment of the Governor, &c. ſhall be taken by the Secretary in the name of the ſtate, &c. The ſureties therein to be approved by the Governor, except as there excepted.

(b) See the act for regulating and eſtabliſhing fees, paſſed June 15, 1793, chap. 27. c. other ſums preſcribed as fees for ſuch licences.

(c) To the uſe of the ſtate by an act paſſed February 22, 1777. chap. 6. b. ſect. 13. and payable to the State Treaſurer by act paſſed June 15, 1793. chap. 28. c. ſect. 2.

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4 Geo. II.

the perſon ſo refuſing, ſhall forfeit Forty Shillings, to be recovered in manner aforeſaid; and for nonpayment thereof, ſhall ſuffer as a common vagrant.

Selling at fairs, &c. not forbid: nor hawking of goods that are made in the government.

SECT. 4. *Provided always, and it is hereby further enacted*, That nothing herein contained, ſhall extend, or be conſtrued to extend, to hinder any perſon or perſons from ſelling or expoſing to ſale any ſort of goods or merchandize in any public market or fair within this government, or to hinder any perſons from carrying about from town to town, and from houſe to houſe, any goods, wares or merchandizes, being of the growth, product or linen manufacture of this government, but that ſuch perſon or perſons may do therein as they lawfully might have done before the making of this act; any thing herein before contained to the contrary notwithſtanding.

Any diſpute ariſing, pedlars, &c. to make oath.

SECT. 5. *And be it hereby further enacted*, That if any diſpute ſhall happen to ariſe concerning the ſaid goods, wares or merchandizes, the perſon or perſons ſo carrying about or expoſing the ſame to ſale, in manner aforeſaid, ſhall be obliged to declare upon oath or affirmation before any Juſtice of the Peace or other Magiſtrate of the county, town or place, where he, ſhe, or they ſhall carry about or offer the ſame to ſale, whether ſuch goods, wares or merchandizes, be of the growth, product or linen manufacture of this government.

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7 Geo. II.

A Supplement to an act of this government, entituled, An act for the better confirmation of the owners of lands, &c. in their juſt rights and poſſeſſions.

Preamble.

WHEREAS by the laws of this government, formerly made for confirming the owners of lands in their juſt rights, and for quieting the poſſeſſion of ſuch as were *bona fide* purchaſers of lands within this government, for a valuable conſideration, are found not to be ſufficient to anſwer the good ends propoſed

propoſed in the ſaid laws: And foraſmuch as at the firſt ſettlement of theſe counties, and for a long time after, the inhabitants were very unſkilful in making deeds and wills, or conveying and deviſing of lands, which heretofore were but of very ſmall value in theſe counties, and by the laws of this government were always ſubject to be taken in execution, and ſold for the payment of debts, as well as to be ſold by executors and adminiſtrators for the payment of the debts of their inteſtates and teſtators, and for maintenance of their children, &c.

SECT. 2. *And whereas*, through the negligence of ſome perſons who have been intruſted with the offices of Clerks and Regiſters of this government, not only many of the records of the ſeveral Courts of Judicature, Orphans Courts, &c. within this government, are burned, or otherwiſe loſt and deſtroyed; but even ſome of the former laws are imbezzelled, ſo that, except where it appears by the recitals of ſuch deeds as are yet in being, there is no legal proof can be made of the judgments, orders or decrees, by virtue whereof many lands within theſe counties have been ſold, and many Wills, Powers of Agency, and Letters of Attorney, are not now to be found, to warrant the ſales and conveyances of lands made by executors or other perſons, who are ſaid to have had authority to ſell by virtue of the powers contained in the ſaid Wills, Powers of Agency, or Letters of Attorney.

SECT. 3. *And whereas*, through the unſkilfulneſs which ſo generally prevailed formerly in this government among perſons pretending to be ſcriveners, or to have ſome underſtanding in the law, ſundry lands have been deviſed to the children of the teſtators, without the addition of the word Heirs, or any other word, by which, in conſtruction of law, ſuch deviſes could be underſtood to be any other than eſtates for life, though it has been well known that the intention of the teſtator has been otherwiſe; and therefore, by conſtant uſage, the children of ſuch teſtators, claiming under ſuch deviſes, have held the lands as eſtates of inheritance, and have ſold, and deviſed the ſame accordingly: And other teſtators and ſcriveners,

for

CHAP. LX. 7 Geo. II.

for want of a due underſtanding and knowledge of the nature of deviſes, and diſtinction between words which make an eſtate in fee-ſimple, and fee-tail, have deviſed lands to their children, and their iſſue, or their heirs or iſſue of their bodies, or to them and their children; when it has been known that all that was intended by the teſtator was no more, than that the lands ſhould go to his child or children, and their heirs; and yet the deviſees, for want of being truly informed of the legal conſtruction of ſuch deviſes, have, as ſoon as they had children, conceived themſelves to have a good right to deviſe or ſell the lands ſo deviſed to them, and have diſpoſed of the ſame accordingly; and oftentimes when it hath happened that ſuch deviſees have died, but have not ſold ſuch lands in their life time, and have left iſſue, who in conſtruction of law were really the heirs or iſſue in tail, ſuch iſſue, from a belief of their having an eſtate of inheritance in the lands ſo deviſed to them, have deviſed, or for a valuable conſideration, ſold or mortgaged the ſaid lands.

SECT. 4. *And whereas* the former aſſemblies of this government, conſidering that rough and unimproved lands were of very little value, and that if perſons having any right or title to lands within this government, ſhould neglect to take poſſeſſion, or claim the ſame in a reaſonable time, and by that means, perſons being ignorant of the claim of ſuch owners, ſhould purchaſe the ſame lands for a valuable conſideration, of other perſons, who have had the ſame ſurveyed to them, or of perſons pretending to be the true heir or heirs of the firſt owners of ſuch lands, and ſuch purchaſer ſhould afterwards, at a great expence of labour and money, render the ſame lands of conſiderable value by their improvements, and die, and leave the ſaid lands to their children: It was therefore provided by a law of this government, above thirty years ago, *(a)* that ſeven years quiet poſſeſſion of lands within theſe counties, which were firſt entered on upon an equitable right, ſhould give an unqueſtionable

(a) See before in chap. 12. 2.

CHAP. LX.
7 Geo. II.

tionable title to the ſame, excepting as in the ſame act is excepted: And the people of this government generally truſting to the equity of that law, and the proviſion therein made for quieting mens poſſeſſions, many honeſt perſons, ignorant of the titles of lands, have purchaſed lands and tenements within this government under the circumſtances before in this act mentioned, which purchaſes have been made *bona fide*, and for a valuable conſideration; and the purchaſers, and thoſe claiming under them, have hitherto continued in the peaceable and quiet poſſeſſion of the ſaid lands, without any claim made by any perſons pretending right or claiming the ſame as heirs or owners, or heirs in tail, remainder or reverſion; and many of the ſaid lands ſo deviſed and ſold as aforeſaid, have been taken afterwards in execution, and ſold for the payment of the debts of the perſons to whom they have afterwards been ſold, and others of the ſaid lands have been taken into the reſpective Loan Offices of this government, for ſecuring the payment of the monies borrowed on the credit of the ſaid lands:

SECT. 5. *Wherefore* to avoid the great inconveniencies, and the ruin of great numbers of families which might happen, if the perſons, who heretofore, without fraud, and for a valuable conſideration, merely for want of knowledge and ſkill in the laws, and for want of opportunities of being better informed, have *bona fide*, and for a valuable conſideration, purchaſed lands under any of the aforeſaid circumſtances, or if the perſons claiming under ſuch purchaſers, who have ſpent their ſtrength and ſubſtance in improving the ſaid lands which formerly were but of ſmall value, ſhould now be turned out of their poſſeſſions by perſons pretending to claim the ſame, as owners or as heirs in tail, reverſion or remainder, or for want of being able to produce the records of the judgments, decrees or orders of the courts where the ſame were entered, or the laſt Wills and Teſtaments, or Powers of Attorney, by virtue of which the ſaid lands were ſold; it is prayed that it may be enacted, *And be it therefore enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Penn-*

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7 Geo. II.

ſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That where any lands or tenements within theſe counties, which have been deviſed to any perſon or perſons (where the words of the will in which the ſame are deviſed, may be conſtrued to be an eſtate in tail) have at any time before the thirty-firſt day of December, in the year of our Lord One Thouſand Seven Hundred and Fifteen, been ſold by the tenant for life, or by the tenant or iſſue in tail, who, in ſtrictneſs of law, had not a good right to ſell the ſame; nevertheleſs, the purchaſer of ſuch lands and tenements having hitherto continued in the peaceable and quiet poſſeſſion of the ſame, and for the recovery of which no ſuit in law or equity hath hitherto been brought againſt ſuch purchaſer or purchaſers, or thoſe claiming under him, her or them; then ſuch purchaſer or purchaſers, upon payment to the heir in tail, remainder or reverſion, claiming right under ſuch will, the ſum of money or price for which the ſaid lands or tenements were at firſt ſold, ſhall hold the ſaid lands and tenements, with their appurtenances, unto the ſaid purchaſer or purchaſers, his or their heirs and aſſigns for ever, againſt the claim of any heir in tail, remainder or reverſion, and againſt all and every other perſon or perſons whomſoever, claiming by, from or under any ſuch deviſe as aforeſaid; the ſaid will, or any thing therein contained to the contrary in any wiſe notwithſtanding.

Purchaſers of lands from tenants for life, &c. how to be quieted in their poſſeſſions.

SECT. 6. *Provided,* That ſuch heir in tail, reverſion or remainder, or other perſon claiming under ſuch deviſes as aforeſaid, do proſecute his or her right within three years after the firſt day of May, in the year One Thouſand Seven Hundred and Thirty-four.

SECT. 7. *And be it further enacted by the authority aforeſaid,* That where any lands have been ſold by any of the Sheriffs within this government, and it appears by the recitals in ſuch Sheriffs deeds, that ſuch ſale was made by virtue of ſome execution or judgment of court, for the payment of the debts of the owners of ſuch lands, although the judgment, order or decree of the court cannot be found; or

Lands taken in execution for payment of debts, &c. and ſold by Sheriffs; or lands ſold by virtue of ſome will, order of court, Power of Attorney, &c.

where

7 Geo. II.

where it appears by the recitals of the grants or conveyances made by executors of the lands of their teſtators, that ſuch ſale or grant was made by an authority in the ſaid will, given to the executor or other perſon granting ſuch lands, to ſell the ſame; or it be recited that the lands granted were ſold by virtue of ſome Power of Attorney from the perſon having right to the ſame, although ſuch Will or Power of Attorney recited in the ſaid deeds, cannot be found; or if it be recited in the grant made by any executor or adminiſtrator, that the ſame was made by ſome judgment, order or decree of ſome court within this government, although the record of ſuch judgment or decree cannot be found; that the ſales of lands and tenements made by Sheriffs, Executors, Adminiſtrators or Attornies, at any time before the thirty-firſt day of December, in the year One Thouſand Seven Hundred and Twenty, and for the recovery of which lands and tenements, no ſuit in law or equity hath hitherto been brought or proſecuted by the perſons pretending right to the ſame, ſhall and are hereby adjudged and allowed to be good and available to the purchaſers and their heirs for ever; the want of the record of the judgment, orders or decrees of court, or the want of any laſt Will and Teſtament, or Power of Attorney, or any of them, notwithſtanding.

How the poſſeſſion thereof ſhall be quieted, in caſes where ſuch will, order, or power cannot now be found.

Sect. 8. *And whereas* it has formerly been a practice within this government, for executors and adminiſtrators to have the lands of their teſtators or inteſtates appraiſed with the perſonal eſtate, and have uſually accounted for the appraiſed value of ſuch lands, either by paying the value for which ſuch lands have been appraiſed, in payment of the teſtators or inteſtates debts, or in maintenance of their children, or to the children of ſuch teſtators or inteſtates themſelves, or to their uſe. *Be it therefore enacted by the authority aforeſaid*, That all ſales and grants of lands within theſe counties, made before the year One Thouſand Seven Hundred and Twenty, by any executors or adminiſtrators, where it appears the executors, or adminiſtrators, who ſold the ſame, have accounted for and paid the appraiſed value of ſuch lands for the uſe of their teſtators and inteſtates,

Sales of lands formerly made by executors, ſhall be available, &c.

and

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and for the recovery of which no ſuit in law or equity hath hitherto been brought, although it does not appear that the ſaid lands were ſold by any judgment, order or decree of any court, or by any authority from the will or wills of the teſtators, ſhall and are hereby judged and allowed to be good and effectual for conveying ſuch lands for the uſes aforeſaid in the ſaid deeds mentioned. *(b)*

Sales of lands formerly made by Feme Coverts with their huſbands, ſhall be good;

SECT. 9. *And whereas* ever ſince the ſettlement of theſe counties, women under covert have been uſed to join with their huſbands in ſelling and conveying the lands of ſuch *feme coverts*, and the ſame hath been conſtantly hitherto deemed and adjudged a good conveyance of the lands of the wife; and no *feme covert*, who jointly with her huſband hath made any ſuch grant or conveyance of her lands within theſe three counties, have ever after the death of their huſbands, or any of the heirs of ſuch *feme coverts* after their deceaſe, ſued for or laid any claim to any of the lands ſold by ſuch *feme coverts* as aforeſaid: Therefore, in order to confirm the rights and quiet the poſſeſſions of ſuch perſons as have *(bona fide)* purchaſed lands within theſe three counties, of *feme coverts* with their huſbands, and to declare for the future, what method of conveyance ſhall be good and effectual to paſs the lands of *feme coverts* within this government: *Be it enacted by the authority aforeſaid*, That all grants, bargains, ſales and alienations of any lands within this government, made by huſband and wife, of the lands belonging to the wife in her own right, where the ſame does not appear to have been done by ſuch *feme covert* by compulſion of her huſband, and againſt her will, declared by her at the time of her executing the deeds or other writings for ſelling or alienating ſuch lands, all and every ſuch grant, bargain and ſale, or conveyance by ſuch *feme covert*, made before the twenty-fifth day of March, in the year One Thouſand Seven Hundred and Thirty-four, ſhall be and is hereby adjudged and deemed to be

(b) See after an act in 25 Geo. II. chap. 142. a. for confirming the ſales of lands made by executors, &c. ſince 1720.

be good and available in law, to convey the ſaid lands ſo ſold to the purchaſer and his heirs; and that ſuch ſale ſhall be as effectual a bar againſt ſuch *feme covert* and her heirs, as if the ſame had been done by fine and recovery or otherwiſe howſoever. And that for the future no grant, bargain or ſale of any lands of any *feme covert* within this government, to be made by ſuch *feme* during her coverture, ſhall be good to paſs away the eſtate or right of ſuch *feme covert*, unleſs the ſaid *feme covert*, granting the ſame, be examined apart from her huſband, by ſome judge or juſtice of the court where ſuch deed ſhall be acknowledged,*(c)* and the ſame be indorſed on ſuch deed by the judge or juſtice who takes ſuch examination, and the time when the ſame was taken; any former cuſtom, law or uſage of this government to the contrary in any wiſe notwithſtanding.

but for the future ſhall not be good, unleſs the Feme Covert be examined apart by ſome judge, &c.

Sect. 10. *Provided always*, That nothing herein contained, ſhall be deemed or underſtood to make good or valid any deed, grant or conveyance made of lands within this government, of which the perſon ſelling the ſame, or his or their under-tenants, or ſome perſon for him, her or them, have not been in poſſeſſion at leaſt within three years next before ſuch ſale; or ſhall be deemed, taken or underſtood to make good and effectual any grant, bargain or ſale, where it ſhall appear any fraud or forgery hath been made or uſed about any deeds or conveyances of any lands, or of any Powers of Agency, Letters of Attorney, laſt Wills and Teſtaments, or other deeds, writings or conveyances of any lands, grounded upon ſuch fraudulent or forged Powers of Agency, Letters of Attorney, or laſt Wills and Teſtaments, or to make good the ſale of any lands and tenements which have been taken in execution, or ſold for any debt, or by any perſon other

Nothing herein contained ſhall make good any fraudulent grant, bargain, &c.

(c) See an act paſſed April 12, 1773. chap. 218. 2. providing for the taking the private examination of ſuch Feme Covert, where ſhe and her huſband do not reſide in the county where the lands intended to be granted are, before any of the Juſtices of the Court of Common Pleas, or any Mayor, Chief Magiſtrate or Officer of the city, town or county, where ſuch grants, &c. are made and executed, and certified under the common or public ſeal of ſuch city, town or county, which is declared to be equally valid as above. And by an act paſſed January 21, 1795. chap. 68. 2. The Chancellor and Judges of the Supreme Court are authoriſed reſpectively to take ſuch examinations of Femes Covert.

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other than the lawful owner of the ſaid lands at the time they were ſold, or where any ſuit either in law or equity hath been commenced before the publication of this act, for the recovery of ſuch lands, but that the ſame ſhall be and continue as before the making of this act; any thing herein contained to the contrary notwithſtanding.

CHAP. LXI. a.

An ACT *for regulating elections, and aſcertaining the number of the Members of Aſſembly.(a)*

WHEREAS the ſeveral laws of this government now in force for regulating elections, and aſcertaining the number of Members of Aſſembly, are found upon experience in ſome things to be uncertain and deficient, in making due proviſion for the freedom and impartiality of ſuch elections, and the maintenance of thoſe privileges which the Aſſembly of this government ought to enjoy, according to the true intent and meaning of the charter granted to the people of the province of Pennſylvania, and the counties of New-Caſtle, Kent, and Suſſex, on Delaware: For remedying whereof,

An Aſſembly to be choſen yearly.

SECTION 1. *BE it enacted by the honorable Patrick Gordon, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That for the well governing of the ſaid counties, there ſhall be an Aſſembly yearly choſen; *(b)* and for that end, it

(a) A Supplementary act hereto, paſſed June 13, 1772. chap. 207. a. being temporary, it was made perpetual by an act, paſſed September 2, 1775.

(b) See the conſtitution of "The State of Delaware," of June, 1792. article 2. veſting the Legiſlative power in a General Aſſembly, to conſiſt of a Senate and Houſe of Repreſentatives. Seven Repreſentatives to be choſen in each county, annually, on the firſt Tueſday in October; alſo three Senators for each county, to ſerve three years, yet ſo as that one in a county be elected on every firſt Tueſday in October,

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it ſhall and may be lawful to and for the freemen and inhabitants of the reſpective counties of this government, without any writ or ſummons, to meet on the firſt day of October yearly, for ever, at the moſt uſual place of elections in the ſaid reſpective counties; that is to ſay, for the county of New-Caſtle, at the court-houſe in the town of New-Caſtle: For the county of Kent, at the court-houſe in the town of Dover: And for the county of Suſſex, at the court-houſe in the town of Lewes: *(c)* And then and there chuſe their Repreſentatives or Delegates to ſerve them in Aſſembly, which ſhall conſiſt of not leſs than ſix perſons for each county of this government, or a greater number as the Governor and Aſſembly ſhall at any time hereafter agree. And that every perſon within this government, qualified to elect according to the directions of this act, refuſing or neglecting (not being hindered by ſickneſs or other unavoidable accident) to attend at the election, and to give in his vote, and being thereof legally convicted by the oath or affirmation of one credible witneſs, before the Juſtices at their next Court of General Quarter Seſſions of the Peace, to be held for the county to which he belongs, ſhall be fined the ſum of Twenty Shillings, one half thereof to be paid to the Treaſurer for the uſe of the county, and the other half to any perſon who will ſue for the ſame. And that the members ſo to be choſen, ſhall meet and ſit in Aſſembly on the *(d)* twentieth day of October yearly, for ever, at *(e)* New-Caſtle, unleſs the Governor for the time being, in caſe of ſome foreign invaſion, or raging ſickneſs prevailing in the place to which the Aſſembly ſhall ſtand adjourned, ſhall ſee cauſe to appoint another place within

The freemen, &c. to meet on the firſt of October, &c.

Not leſs than ſix Repreſentatives to be choſen for each county.

Penalty on perſons not attending, who are qualified to elect.

The Aſſembly ſhall ſit on the 20th of October yearly, &c.

and to meet in General Aſſembly on the firſt Tueſday in January in every year, unleſs ſooner convened by the Governor. For the qualifications of ſuch Senators and Repreſentatives, ſee the 2d and 3d ſections of the ſaid article.

(c) George-Town in the place of Lewes, ſee chapters 222. b. and 237. b. paſſed in 1791.

(d) Firſt Tueſday in January, by ſect. 4. of article 2. of the conſtitution of 1792, aforeſaid.

(e) The town of Dover, unleſs, &c. See an act, chap. 47. b. paſſed October 28, 1779.

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7 Geo. II.

within this government to meet at: But when any of the ſaid days of elections or meeting of Aſſembly, ſhall happen to fall on the firſt day of the week, called Sunday, then ſuch election and meeting ſhall be the next day following.

Who are qualified to elect or be elected.

SECT. 2. *Provided always*, That no inhabitants of this government, ſhall have right of electing or being elected as aforeſaid, *(f)* unleſs he or they be natural born ſubjects of Great Britain, or be naturalized in England, or in this government, or in the province of Pennſylvania, and unleſs ſuch perſon or perſons be of the age of twenty-one years or upwards, and be a freeholder or freeholders in this government, and have fifty acres of land or more well ſettled, and twelve acres thereof cleared and improved, or be otherwiſe worth Forty Pounds lawful money of this government clear eſtate, and have been reſident therein for the ſpace of two years before ſuch election: And that every man who ſhall give his vote without being qualified as aforeſaid, or that ſhall receive any reward or gift for his vote, or that ſhall give, offer or promiſe any reward to be elected, or ſhall offer to ſerve for nothing or leſs allowance than the law preſcribes, ſhall forfeit Five Pounds, the one half thereof to the Governor, and the other to him or them who will ſue for the ſame in any Court of Record within this government; and the perſon ſo elected ſhall be incapable to ſerve for that year.

Penalty on bribing or being bribed to vote.

The method of making and carrying on of elections.,

SECT. 3. *And be it further enacted by the authority aforeſaid*, That every Sheriff, or in his abſence his Under-Sheriff, or ſuch as he ſhall depute, or for want of ſuch deputation, the Coroner, or ſuch as he ſhall appoint; or for want of ſuch appointment, any two of the freeholders, who by the major part of the electors then and there preſent, ſhall be nominated and appointed judges of the ſaid elections, in the abſence of the ſaid Sheriff or Coroner, ſhall attend at the ſaid elections; and the electors ſhall then proceed to the choice of Inſpectors of the ſaid elections, who ſhall be

(f) For the alterations in this clauſe, ſee article 4. of the conſtitution of 1792, aforeſaid, and alſo ſects. 2, 3, 12. of article 2. of the ſame conſtitution.

be freeholders, and be nominated one out of each hundred by the free electors thereof, and when ſo choſen, ſhall be qualified by oath or affirmation, by the Sheriff of the proper county, or other Judges of the elections, who are hereby impowered and required to adminiſter the ſame, That they will duly attend the enſuing election, during the continuance thereof, and will truly and faithfully aſſiſt the Sheriff, Coroner or other perſons who ſhall, by virtue of this act, officiate as Judges of the ſaid elections, to prevent all frauds and deceits whatſoever of electors or others, in the management and carrying on the ſame, and in cauſing the poll or votes at ſuch elections to be taken and caſt up according to the directions of this act; and being ſo qualified ſhall appoint Clerks, who ſhall take the ſaid poll or names of the electors, in the preſence of the ſaid Sheriff, Coroner or other judges as aforeſaid, or ſuch as any of them ſhall depute or appoint, and ſhall make as many diſtinct columns on fair paper as there ſhall be candidates voted for, as is herein after expreſſed; but before they begin, every Clerk ſo appointed, ſhall, by the ſaid Sheriff or Coroner, or by ſome magiſtrate then preſent, be atteſted or charged on his oath or ſolemn affirmation, truly and indifferently to take the ſaid poll, and ſet down the names of each freeholder and elector, and the place of his freehold or eſtate, and to poll no elector who is not atteſted, if ſo required by the Inſpectors of ſuch elections. *(g)* And every perſon coming to elect

Qualification of Inſpectors.

Vide 13 of George I.

Qualifications of Clerks.

(g) See an act paſſed November 1, 1766. chap. 187. a. directing the choice of Inſpectors to be made on 15th September, yearly, in each hundred of the government: That each Inſpector ſo choſen be furniſhed with an alphabetical liſt of taxables within the hundred, the better to judge of the qualifications of the electors at the next general election, and that he receive the votes of the electors of his hundred, and none other, marking off the name of the voter by writing the word VOTED in the margin of the liſt aforeſaid, &c.

See alſo the ſaid ſupplementary act, chap. 207. a. preſcribing the oath, &c. to be taken by the Inſpectors, and divers duties to be performed by them at the ſaid general election, and giving to them a concurrent power with the Sheriff or Coroner; preſcribing alſo the oath, &c. to be taken by the Clerks.

And ſee alſo "An act for better ſecuring elections in this ſtate," paſſed June 5, 1779. chap. 44. b. declaring who ſhall hold the elections for Repreſentatives in General Aſſembly, in the abſence of Sheriff and Coroner, together with the Inſpectors: Providing againſt attempts to interrupt ſuch elections, and if prevented, that the late ſitting members of that county reaſſume their ſeats in the General Aſſembly, for the ſole purpoſe of ordering writs for the holding a new election there; and directing the Sheriff or preſiding officer or officers, at every election for Repreſentatives, publicly to read this act under the penalty of £.200.

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elect members for the ſaid reſpective counties, ſhall deliver in writing the names of thoſe perſons for whom they vote, to the Sheriff or ſome other of the ſaid perſons ſo as aforeſaid appointed Judges of the ſaid elections, who ſhall open the paper, if the perſon be illiterate, and read the perſons names contained therein, and aſk ſuch elector whether theſe are the perſons for whom he votes, which paper, upon his anſwering in the affirmative, ſhall be received and put with the reſt of the electors papers in a box, which every Sheriff is hereby required to provide for that purpoſe: But if the elector brings no ſuch paper or ticket, or if the illiterate elector will not vote for the perſons contained in his paper, then, and in all ſuch caſes, the elector ſhall verbally give in the names of the perſons he moſtly deſires ſhould be choſen, which names ſhall be entered down by the ſaid Clerks.

Names of perſons voted for to be delivered in writing, &c.

The qualification of electors, &c.

SECT. 4. *Provided always*, That every elector before he be admitted to poll (if required by any of the ſaid inſpectors) ſhall upon his oath or ſolemn affirmation, declare, that he is twenty-one years of age, *(b)* and a freeholder of the county of and has fifty acres of land or more well ſeated, and twelve acres or more thereof cleared, or that he is otherwiſe worth Forty Pounds money of this government clear eſtate, and hath been reſident therein for the ſpace of two years, and that he has not been before polled at that election. And in caſe any perſon taking the ſaid oath or affirmation, ſhall be lawfully convicted of wilfully and corruptly making a falſe oath or affirmation therein, or if any ſhall ſuborn any perſon to take ſuch falſe oath or affirmation, he or they ſhall incur the ſame penalties and forfeitures as by the laws and ſtatues of England, are provided againſt perſons convicted of wilful and corrupt perjury and ſubornation of perjury reſpectively: And that the ſaid poll ſhall not be delayed, nor the election adjourned to another

Penalty on falſe oath or affirmation.

The poll not to be delayed or adjourned, &c.

(b) See article 4. of the ſaid conſtitution of June 1792. That every white freeman of the age of twenty-one years, having reſided in the ſtate two years next before the election, and within that time paid a ſtate or county tax, aſſeſſed at leaſt ſix months before the election ſhall enjoy the right of an elector; and the ſons of perſons ſo qualified between the ages of 21 and 22 years ſhall be entitled to vote although they ſhall not have paid taxes.

other place or part of the country other than where the ſame begins, but ſhall continue from day to day till the freeholders and electors then and there preſent, ſhall be polled, and no longer: And when all the electors then appearing, ſhall have delivered in all their papers or names, the ſaid box ſhall be opened by the Sheriff or ſome other of the perſons appointed by this act to officiate as Judges of the ſaid elections, and the ſaid papers taken out in the preſence of the ſaid Inſpectors, and delivered one by one to the ſaid Clerk or Clerks, to enter the names therein expreſt in fair columns or otherwiſe, ſo that they ſhall caſt up how many times ſuch perſons name is repeated in the ſame, and ſet it down, and ſhall then pronounce publicly to the people, him, whoſe name is ofteneſt mentioned in the ſaid papers, to be firſt elected, and ſo the next higheſt number ſucceſſively, until the whole ſix perſons for the county be pronounced elected by majority as aforeſaid. But if when the ſaid papers are opened, there appear fewer or more names in any one of them, or more than one paper deceitfully folded together, containing more names than by this act is allowed any one elector to vote for, ſuch papers ſhall be rejected, and not accounted amongſt the votes.

Votes to be caſt up, and the election proclaimed.

Any deceit in a ticket makes it void.

SECT. 5. *And* after the ſaid Repreſentatives are ſo choſen as aforeſaid, their names (be they preſent or abſent) ſhall be written in a pair of indentures ſealed between the ſaid Sheriff, or other perſons officiating as Judges of the ſaid election, and ſix or more of the ſaid electors; *(i)* and every Sheriff or other perſon officiating as Judges of the ſaid election, ſhall, on the firſt day of the meeting of every Aſſembly, in perſon, or by deputy, preſent one part of the ſaid indentures to the Governor for the time being, and the other part thereof to the Houſe of Repreſentatives; which

The names of the Repreſentatives to be written in indentures; one of which to be delivered to the Governor, and the other to the Houſe, &c.

(i) See ſection 1, of the aforeſaid ſupplementary act, chap. 207. That at leaſt two of the inſpectors and four of the electors then preſent are to join in the ſaid indentures. And ſee in ſection 7, directions for preſerving all the liſts of the names of taxables delivered to the inſpectors and uſed by them in aſcertaining the perſons voting, with the liſts and tallies of their Clerks, and the votes or tickets delivered in and read at the ſame election, to be ſigned by the Clerks and two or more Inſpectors, under reſpective penalties, the better to enable the Aſſembly to judge of the election of their members, &c.

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which ſaid indentures ſhall be deemed and taken to be the Sheriff's return of the Repreſentatives or Delegates of the freemen of this government, to ſerve and act in the Legiſlative or General Aſſemblies of the ſame government from time to time, and the Repreſentatives ſo as aforeſaid choſen, ſhall yield their attendance accordingly.

Penalty on perſons choſen refuſing to ſerve.

SECT. 6. *And* if any perſon or perſons ſo choſen and returned to ſerve as aforeſaid, ſhall be abſent from the ſervice for which he or they ſhall be ſo elected, he or they ſhall forfeit any ſum not exceeding Ten Pounds current money of this government, the one half thereof to the Governor, and the other half to him or them that ſhall ſue for the ſame in manner aforeſaid, unleſs his or their excuſe for ſuch abſence be allowed of by the Aſſembly.

How vacancies in the Houſe are to be filled.

SECT. 7. *And* if any perſon ſo choſen and returned as aforeſaid, ſhall happen to die or be wilfully abſent, or by vote of the Houſe be diſabled to ſit or ſerve in Aſſembly,*(k)* that then, and in every ſuch caſe, the Speaker of the Aſſembly for the time being, by direction of the Houſe, ſhall ſignify to the Governor for the time being, the order of the Houſe for electing a new member in the room of the perſon deceaſed, wilfully abſent, or diſabled by vote of the Houſe to ſerve in Aſſembly; and in caſe the Governor ſhall not within two days after ſuch application to him made as aforeſaid, iſſue out writs to the Sheriff of the reſpective counties where there ſhall be occaſion for electing ſuch new member, and cauſe notice of his having ſo done to be given to the Aſſembly within the time aforeſaid, it ſhall and may be lawful for the Speaker of the Aſſembly for the time being, by order of the Houſe, to iſſue forth the ſaid writs, which ſhall be made in the Governor's name, under the hand and ſeal of the Speaker, whereupon every Sheriff, or other officer, to whom ſuch writ or writs are directed, ſhall indorſe the receipt thereof on the back, and with all convenient ſpeed, after he receives ſuch writ, ſhall

(k) See ſection 13 of article 2, of the conſtitution of June 1792. That when vacancies happen in either Houſe, viz. of Senate or Repreſentatives, writs of election ſhall be iſſued by the Speakers reſpectively, &c.

ſhall cauſe public notice to be given of the time and place of election, and proceed to elect thereupon in manner aforeſaid, within the ſpace of five days after the receipt of the ſaid writ, and give three days notice at leaſt of the day appointed for the election; which notice ſhall be given in writing, and ſhall be proclaimed in the moſt public places of the capital town or place where ſuch election is to be; and the ſaid Sheriff or other officer ſhall cauſe copies of ſuch notice or advertiſement to be poſted on ſome tree or houſe in the way leading from every hundred, townſhip or precinct to the town or place where the ſaid election is to be, as alſo upon the Court-Houſes and public fixed meeting-houſes for religious worſhip in the ſaid reſpective counties: And when thoſe elections are made by virtue of the ſaid writs in manner aforeſaid, the Sheriff, or other officer, who ſhall officiate as Judges of the ſaid elections, ſhall write down the names of the perſons ſo elected in a pair of indentures ſealed, and preſent one part thereof to the Governor, and the other part to the Aſſembly, on the day of the return of ſuch writs; which ſaid indentures ſhall be deemed to be the Sheriff's return of ſuch Repreſentatives; all which ſaid elections ſhall begin between the hours of ten in the morning and two in the afternoon; and that no perſon or perſons whatſoever, by force of arms, or menacing, ſhall diſturb the freemen of this government in the free election of their Repreſentatives, but that the ſame election ſhall be freely and indifferently made. *(l)*

Penalty on Sheriffs, &c. not performing the duty required of them by this act.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That if any Sheriff ſhall refuſe or neglect to give notice of the ſaid election by writs, then the Coroner of the reſpective county where the ſame ſhall happen, is hereby required by himſelf, or his deputy, to officiate and perform all that the ſaid Sheriff or his deputy ought to have done and performed at the ſaid elections, according to the tenour and directions of this act. And every Sheriff, or other officer, not making

(l) See the ſaid act of June 5, 1779. chap. 44. b. in caſe of any riotous or unlawful attempt to interrupt or prevent the ſaid election, the Sheriff or other preſiding officer or officers thereof, are required to ſuppreſs and quell the ſame, &c.

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making good and true returns of the ſaid elections of Repreſentatives or Members of Aſſembly, according to the direction of this act, or refuſing, or wilfully neglecting to do and perform all or any of the matters and things in this act required to be done by ſuch Sheriff or Coroner, at and after the ſaid elections, ſhall forfeit for every ſuch offence, the ſum of One Hundred Pounds money aforeſaid, the one half thereof to the Governor, and the other moiety thereof to him who will ſue for the ſame in manner aforeſaid.

The powers and privileges of an Aſſembly;

SECT. 9. *And be it further enacted by the authority aforeſaid*, That the Repreſentatives ſo choſen and met according to the directions of this act, *(m)* ſhall be and continue the Aſſembly of this government for the enſuing year, and ſhall have power to chuſe a Speaker and other their officers, and ſhall be Judges of the qualifications and elections of their own members, ſit upon their own adjournments, appoint committees, prepare bills in order to paſs into laws, impeach criminals, and redreſs grievances, and ſhall have all other powers and privileges of an Aſſembly according to the rights of the free-born ſubjects of England, and as is uſual in any of his Majeſty's plantations in America. And if any county, or part of this government, ſhall refuſe or neglect to chuſe their reſpective Repreſentatives as aforeſaid, or if choſen do not meet to ſerve in Aſſembly, thoſe who are ſo choſen and met, ſhall have the full power of an Aſſembly, in as ample manner as if all the Repreſentatives had been choſen and met, provided they are not leſs than two-thirds of the whole that ought to meet. *(n)*

two thirds of the whole number may act:

No member to vote in the Houſe till qualified.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That no perſon who ſhall be hereafter a Member of the Aſſembly or Houſe of Repreſentatives of this government, ſhall be capable to vote in the ſaid Houſe, or ſit there during any debate after their Speaker

(m) See article 2, of the ſaid conſtitution of June 1792. throughout for further expreſs proviſions, article 5. ſects. 1, 2, article 8. ſects. 1, 3, 6, 12. and article 10.

(n) See alſo ſection 2, of the ſaid act of June 5, 1779. chap. 44. b. as in note (*l*) page 151.

Speaker is choſen, until he ſhall make and ſubſcribe the following declarations and profeſſion of his chriſtian belief, viz. (o)

The qualification of every Member of Aſſembly.

I A. B. *do ſincerely promiſe and ſolemnly declare before God and the World, That I will be faithful and bear true allegiance to King George the Second. And I do ſolemnly profeſs and declare, that I do from my heart abhor, deteſt and renounce, as impious and heretical, that damnable doctrine and poſition, that Princes, excommunicated or deprived by the* Pope, *or any authority of the* See *of* Rome, *may be depoſed or murdered by their ſubjects, or any other whatſoever.*

And I do declare that no foreign Prince, Perſon, Prelate, State or Potentate, hath, or ought to have, any power, juriſdiction, ſuperiority, preheminence or authority, eccleſiaſtical or ſpiritual, within the realm of Great Britain, *or the dominions thereunto belonging.*

And I, the ſaid A. B. *do ſolemnly and ſincerely, in the preſence of God, profeſs, teſtify and declare, that I do believe that in the Sacrament of the* Lord's Supper *there is not any tranſubſtantiation of the elements of the bread and wine into the body and blood of Chriſt, at or after the conſecration thereof by any perſon whatſoever; and that the invocation or adoration of the* Virgin Mary, *or any other Saint, and the ſacrifice of the Maſs, as they are now uſed in the Church of* Rome, *are ſuperſtitious and idolatrous.*

And I do ſolemnly, in the preſence of Almighty God, profeſs, teſtify and declare, that I do make this declaration, and every part thereof, in the plain and ordinary ſenſe of the words read unto me, as they are commonly underſtood by Engliſh *proteſtants, without any evaſion, equivocation, or mental reſervation whatſoever, and without any diſpenſation already granted me for this purpoſe by the Pope or any other authority or perſon whatſoever, or without any hope of any ſuch diſpenſation from any perſon or authority whatſoever, or without thinking I am or may be acquitted before God or man, or abſolved of this declaration, or any part thereof, although the* Pope *or any other perſon or perſons, or power*

(o) Repealed by an act paſſed February 22, 1777. chap. 2. b. in ſect. 6. and ſupplied in article 9, of the conſtitution of June 1792.

See alſo article 1. ſect. 2. of the ſame conſtitution, "That no religious teſt ſhall be required as a qualification to any offiſe or public truſt under this ſtate."

CHAP. LXI. 7 Geo. II.

power whatſoever, ſhould diſpenſe with, or annul the ſame, or declare that it was null or void from the beginning.

And I A. B. *profeſs faith in God the Father, and in Jeſus Chriſt his eternal Son, and in the Holy Spirit, one God bleſſed for evermore; and I do acknowledge the Holy Scriptures of the Old and New-Teſtament to be given by divine inſpiration.*

Time of taking the qualification.

SECT. 11. *Which* ſaid declarations and profeſſion of faith ſhall be in the next and every ſucceeding Aſſembly to be held in this government, ſolemnly and publicly made and ſubſcribed in their houſe, between the hours of nine in the morning and four in the afternoon, by every ſuch Member of the Houſe of Repreſentatives at the table, and while a full Houſe of Repreſentatives is there ſitting with their Speaker in his chair; and during the making and ſubſcribing thereof, all buſineſs and debates in the ſaid Houſe ſhall ceaſe,

Qualification to be recorded, &c.

SECT. 12. *And* the Clerk of the Aſſembly is hereby required to record the ſame in rolls or books prepared for that purpoſe, and every Member of Aſſembly ſhall pay the Clerk for recording thereof Sixpence, and no more: And that the manner and method of making the ſaid declarations ſhall be as followeth (*to wit*) The Speaker ſhall firſt read and ſubſcribe the ſame, and after him every member as he is called over, ſhall either read and ſubſcribe the ſaid declarations in manner and form aforeſaid, or elſe ſubſcribe them as they ſhall be read unto him by the Clerk of the Aſſembly.

Manner of making the declaration, &c.

No perſon choſen, that makes and ſubſcribes the ſame, ſhall be denied his ſeat in the Houſe,

SECT. 13. *And be it enacted by the authority aforeſaid*, That no perſon whatſoever, who at any time ſhall be elected Member of Aſſembly in this government, and who ſhall make, and be willing and offer to make and ſubſcribe the ſaid declarations in manner and form aforeſaid, ſhall be rejected or denied to ſit, debate and act in the Houſe of Repreſentatives, or General Aſſembly of this government, he being otherwiſe qualified as this law directs. *(p)*

SECT.

(p) See before the references at note. *(m)* p. 154.

7 Geo. II.

Except unduly elected, &c.

SECT. 14. *Provided nevertheleſs*, That nothing herein contained, ſhall extend to debar or hinder the Houſe of Repreſentatives to reject ſuch perſons as are or ſhall be unduly elected members to ſerve in Aſſembly, or ſuch as the Aſſembly, or major part of them, ſhall ſee cauſe from time to time, by vote to expel or diſable to ſit or ſerve there, by reaſon of ill practice in elections, or miſbehaviour in the houſe. *(q)*

Members allowance per Diem.

SECT. 15. *And be it further enacted by the authority aforeſaid*, That every member choſen to ſerve in Aſſembly as aforeſaid, ſhall be allowed the ſum of *(r)* Six Shillings per day, and the Speaker Ten Shillings per day during his or their attendance, by the counties they reſpectively repreſent; and that every Member of Aſſembly ſhall be allowed towards his travelling charges after the rate of Three-pence per mile, coming to and going from the place where the Aſſembly is or ſhall be held.

CHAP. LXII. a.

An ACT *for erecting a pound in the town of New-Caſtle.*

12 Geo. II.

Preamble.

WHEREAS many of the inhabitants of the hundred of New-Caſtle have received great injury and damage by unruly horſes and cattle breaking into their fields and incloſures; for remedy whereof,

SECTION 1. *BE it enacted by the honorable George Thomas, eſq. (a) Lieutenant Governor of and in the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent*

(q) See article 2. ſect. 7. of the conſtitution of June 1792, for the powers of cenſure and expulſion in each Houſe of the Legiſlature.

(r) By an act paſſed February 2, 1793, chap. 6. c. to each of the Members of the General Aſſembly Two Dollars, and to the Speaker of each Houſe Two Dollars and Fifty Cents, with Five Cents per mile.

(a) George Thomas, eſq. began his government June 1, 1738, and continued until June 6, 1747.

CHAP. LXII.

12 Geo. II. A pound to be erected in New-Caſtle.

of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That a pound ſhall be erected in the town of New-Caſtle in the county of New-Caſtle on Delaware, at the proper coſt and charge of the inhabitants of the ſaid hundred: And if any horſes or cattle ſhall at any time hereafter break into any field or incloſure of any of the inhabitants of the aforeſaid hundred, being fenced as the law of this government directs, then and in that caſe it ſhall and may be lawful for the owner or poſſeſſor of ſuch field or incloſure, to put ſuch horſes or cattle in the pound aforeſaid, there to remain until the damages which ſhall be adjudged by the viewers of the fences within the ſaid hundred to have been ſuſtained, are paid by the owner or owners of ſuch horſes or cattle ſo impounded: *(b)* But in caſe the owner or owners of ſuch horſes or cattle are not known, or do not appear, the keeper of the pound ſhall, and is hereby ordered immediately to cauſe notes to be affixed at the moſt public places in the ſaid hundred, deſcribing the marks and colour of ſuch horſes or cattle in his poſſeſſion, and ſhall in the mean time provide the ſaid horſes or cattle with ſufficient food and water. And if the owner or owners of ſuch horſes or cattle do not appear within the ſpace of ten days after ſuch impounding, it ſhall and may be lawful for the ſaid keeper of the ſaid pound, to cauſe the ſaid horſes or cattle to be appraiſed by two creditable men, inhabitants of the ſaid hundred, (they being firſt lawfully qualified) and to cauſe them to be ſold at public vendue, at the market-place within the town of New-Caſtle aforeſaid; and out of the money ariſing by the ſale aforeſaid, to pay all charges of keeping ſuch horſes or cattle in the pound, and other coſts, together with ſuch damages as the owners of ſuch field or incloſure ſhall have ſuſtained; and the overplus (if any be) to be lodged in the hands of the County Treaſurer for the time being, there to remain for the full ſpace of one year; and if the owner or owners of ſuch horſes or cattle during that time do not appear, then the money ſo lodged in

Cattle, &c. breaking into incloſures, ſhall be impounded.

Pound-keeper ſhall give public notice, &c.

Owner not appearing within ten days, appraiſement and ſale ſhall be made, &c.

(b) See chap. 70. a. ſect. 3. 13 Geo. II.

in the Treaſurer's cuſtody, to be applied for the uſe and benefit of the poor of the hundred aforeſaid. But if it ſhall be found upon view by the overſeers of the fences within the hundred aforeſaid, that the fences of ſuch fields or incloſures, wherein ſuch horſes or cattle have been taken treſpaſſing, are not ſufficient or lawful fences, then and in ſuch caſe the owner or owners of ſuch field or incloſure ſhall pay all coſts and damages which have accrued or ſhall accrue thereon.

Juſtices, &c. impowered to aſſeſs for erecting the pound.

SECT. 2. *And* in order that the deſign of erecting the pound aforeſaid may not be defeated, *Be it enacted by the authority aforeſaid*, That the Juſtices of Newcaſtle County, in their next Court of Quarter Seſſions, together with the Aſſeſſor of the ſaid hundred, ſhall, and are hereby impowered to aſſeſs every freeholder and inhabitant of the hundred aforeſaid, in all ſuch ſum and ſums of money, as may be neceſſary to erect the ſame.

Juſtices to appoint a pound-keeper, eſtabliſh fees, &c.

SECT. 3. *And be it further enacted by the authority foreſaid*, That the ſaid juſtices, at their ſeſſions aforeſaid, or any ſucceeding ſeſſions, ſhall, and are hereby impowered to appoint a proper officer for keeping of the ſaid pound, and to eſtabliſh ſuch fees to be paid to the ſaid officer for his ſervices, and for keeping the ſaid pound in repair, as they from time to time ſhall think proper.

CHAP. LXIII. a.

An ACT *impowering John Holliday, James Gorrel, and Thomas Skidmore, jun. of Kent county, gentlemen, to ſell and diſpoſe of all ſuch of the lots of ground within the town of Dover, in the ſaid county, as have not hitherto been ſold and diſpoſed of; and alſo to confirm to the preſent poſſeſſors all ſuch lots as have been heretofore purchaſed within the ſaid town from the former truſtees, and which have not been duly conveyed to them.* 13 Geo. II.

Preamble.

WHEREAS by an act of General Aſſembly of this government, entituled, *An act appointing*

CHAP. LXIII.
13 Geo. II.

ing perſons to lay out two hundred acres of land in lots adjoining to the Court-Houſe of the county of Kent, and to diſpoſe of the ſame to the uſe of the public; Benjamin Shurmer, William Brinkloe, and Richard Richardſon, of the ſaid county, gentlemen, or any two of them, were impowered and appointed to ſurvey and lay out into lots a certain tract of land in the ſaid county, adjoining to the Court-Houſe of the ſaid county, and purchaſed by the people thereof, and commonly called the town of Dover, in ſuch meaſures and proportions as to them ſhould ſeem meet and convenient; and the ſaid lots, ſo ſurveyed and laid out, to diſpoſe of and ſell, to ſuch perſons as ſhould be willing to purchaſe the ſame; and further, to execute all ſuch deeds and conveyances for the ſame as ſhould be neceſſary and requiſite, as by the ſaid recited act may appear.

SECT. 2. *And whereas* the aforeſaid Benjamin Shurmer, William Brinkloe, and Richard Richardſon, are ſince deceaſed, and many of the lots of ground within the ſaid town remain unſold, to the great detriment of the public.

SECT. 3. *And whereas*, alſo after the deceaſe of William Brinkloe and Richard Richardſon, two of the ſaid truſtees, many perſons did actually and *bona fide* purchaſe of Benjamin Shurmer, the ſurvivor, ſeveral lots of ground within the ſaid town; but becauſe the truſt did not ſurvive to the ſaid Benjamin Shurmer by virtue of any words of the act aforeſaid, ſuch perſons could not have ſufficient titles for ſuch lots from the ſaid Benjamin Shurmer, but are in danger of being diſpoſſeſſed of the ſame: For the remedying and preventing therefore of ſuch inconveniencies both to the public and ſuch perſons as have been *bona fide* purchaſers as aforeſaid, and in order that the intention of the ſaid act may be fully complied with;

John Holliday, and others, impowered to ſell lots within the town of Dover.

SECT. 4. *Be it enacted by the honorable George Thomas, eſq. Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That John Holliday, James

James Gorrel, and Thomas Skidmore, jun. of the county of Kent, gentlemen, or any two of them, and the ſurvivors and ſurvivor of them, ſhall, and are hereby impowered to grant, bargain, ſell and confirm all ſuch lots of ground within the town of Dover aforeſaid, as have not hitherto been ſold or diſpoſed of by the truſtees in the aforeſaid act named, to ſuch perſon and perſons as ſhall be willing to purchaſe the ſame, for ſuch value and conſideration as ſhall be agreed upon between them and the purchaſers.

And to make aſſurances to ſuch as purchaſed of B. Shurmer.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the ſaid John Holliday, James Gorrel, and Thomas Skidmore, jun. or any two of them, and the ſurvivors and ſurvivor of them, are hereby impowered and required to make, execute and acknowledge all ſuch conveyances and aſſurances as ſhall be reaſonably required, and are neceſſary for the confirming all ſuch perſons in their rights and poſſeſſions, who ſhall appear to them the ſaid truſtees actually and *bona fide* to have purchaſed any lots within the ſaid town of Dover, of the aforeſaid Benjamin Shurmer, ſince the deceaſe of the aforeſaid William Brinkloe and Richard Richardſon, at the proper coſts and charges of the ſaid purchaſers, their heirs and aſſigns, to be had, made and executed.

The purchaſers paying the ſum originally contracted for to the uſe of the public.

SECT. 6. *Provided always*, That ſuch perſon or perſons ſhall pay, or ſecure to be paid to the ſaid truſtees, for the uſe of the public, ſuch ſum and ſums of money as the ſaid lots were originally contracted for; all which conveyances and aſſurances ſhall be good and valid to all ſuch purchaſer and purchaſers, their heirs and aſſigns for ever.

The Truſtees to account yearly with the Juſtices and Grand-Jury.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That the ſaid truſtees ſhall once in every year, render an account to the Juſtices of the Peace of the ſaid county, and ſuch of the Grand-Jury as ſhall be preſent, of all the lots ſo by them ſold or diſpoſed of, and the conſideration for which the ſame have been purchaſed and bought; and ſhall alſo pay to the Treaſurer of the ſaid county, for the time being, all ſuch ſums of money as they have received for lots ſold as aforeſaid; all which ſums of money ſhall be diſpoſed of, and applied to ſuch uſes and purpoſes as

the

CHAP. LXIII.

13 Geo. II.

who ſhall allow them a reward for their trouble.

the ſaid Juſtices and Grand-Jury, at the time of the laying of the levies for the ſaid county, ſhall direct and appoint. *And* that the Juſtices, together with the Grand-Jury, or ſuch of them as will be preſent, ſhall and may, at the time aforeſaid, yearly allow to the ſaid truſtees ſuch reward, for their care and pains in executing the truſt repoſed in them by this act, as they the ſaid Juſtices and Grand-Jury ſhall think fit and reaſonable.

CHAP. LXIV. a.

13 Geo. II.

An ACT *about defalcation.*

FOR the avoiding numerous ſuits at law within this government,

Any perſon ſued on bond, &c. may defalk what the plaintiff is indebted to him, &c.

SECTION 1. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if two men, dealing together, be indebted to each other, upon bonds, bills, bargains, and the like, the defendant may, in his plea and anſwer to the plaintiff's declaration, acknowledge the debt which the plaintiff demands from him, and defalk what the plaintiff is indebted to him the ſaid defendant, *Provided always,* That if the plaintiff's demand be a ſpecialty, the defendant ſhall prove the debt to be defalcated, by the evidence of one credible perſon at the leaſt, or by his or her book regularly kept, with fair entries. *(a)*

Before ſuit brought, the plaintiff ſhall requeſt the debtor to ſettle.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That the creditor or plaintiff ſhall be obliged by word or writing, at leaſt ten days before ſuit brought, to requeſt the debtor or defendant, being a freeholder within this government, to ſettle and adjuſt

(a) See after in chap. 136. a. ſect. 3.

juſt accounts; and if the balance, upon ſuch ſettlement, be made under Forty Shillings, the creditor or plaintiff may recover the ſame by warrant from a Juſtice of the Peace, as is directed for the recovery of debts under Forty Shillings: *(b)* And if the debtor or defendant refuſe to come to account, the creditor or plaintiff may ſue him for the whole account, and ſhall recover his coſts, notwithſtanding the balance due may be found under Forty Shillings. *(c)*

If the balance be under 40s. it may be recovered by warrant.

If the debtor refuſe to ſettle, the plaintiff may ſue for the whole, &c.

SECT. 3. *But* if the defendant doth prove, that before ſuit brought, he tendered to the plaintiff his, the ſaid defendant's, account againſt him, and ſo much money as ſhall, upon trial, be found to be due to the plaintiff, the plaintiff ſhall ſuffer nonſuit, and pay coſts.

If the defendant prove that he tendered his account and balance, the plaintiff ſhall be nonſuit.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That where the plaintiff and defendant having accounts againſt one another, ſhall, by themſelves, or their Attornies or Agents, conſent to a rule of court for the referring the adjuſtment thereof to indifferent perſons, mutually choſen, or appointed by the Juſtices in open court, the award or report of ſuch referrees being made according to the reference, and approved by the court, ſhall be deemed and taken, to be as available in law as a verdict of a jury; *(d)* and the party or parties to whom any ſum of money ſhall be awarded or found to be due, ſhall have judgment, if he be plaintiff, and a *ſcire facias*, if he be defendant, and have an execution for the ſame, with coſts of that action, any law, cuſtom or uſage to the contrary notwithſtanding. *And* that the former act of Aſſembly, entituled, *An act about defalcation*, ſhall be, and is hereby repealed.

If plaintiff and defendant conſent to a rule for referring, the award ſhall be binding, &c.

Repeal of the former act.

CHAP.

(b) See after in chap. 73. a.

(c) See after an act paſſed February 4, 1792. in chap. 250. b. ſect. 18.

(d) See alſo an act paſſed February 2, 1793. chap. 7. c. ſect. 6. which directs the appointing of Auditors in caſes where judgments are to affect and bind the real eſtates of deceaſed perſons, &c.

CHAP. LXV.

13 Geo. II.

CHAP. LXV. a.

An ACT *limiting the time of the Sheriffs within this government holding their offices, and preventing bribery and corruption in the election of the ſaid Sheriffs.* (a)

Preamble.

WHEREAS it is found by experience that many evils have ariſen by perſons holding the office of Sheriff within the ſeveral counties of this government ſo often as they could procure themſelves to be elected and appointed to that office: *And whereas* ſuch perſons as ſtand canditates, or make intereſt for being elected and returned for the office of Sheriff within this government, make it their frequent practice to engage perſons to vote for them, by giving them ſtrong drink, and uſing other means, inconſiſtent with the deſign of free voting at elections; by means whereof many unguarded perſons are drunk and diſorderly more particularly at the time of elections; whereby great confuſions and miſchiefs ariſe;

Sheriffs having ſerved 3 years ſucceſſively, may not be choſen again within 3 years.

SECT. 2. *For* prevention whereof, *Be it enacted by the honorable George Thomas, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That no perſon or perſons within this government, who hath been elected or ſerved in the office of Sheriff in any county of this government for the ſpace of three years ſucceſſively, or at any one time, ſhall again be elected, or be capable to ſerve as Sheriff of the ſame county within the ſpace of three years next after his being Sheriff as aforeſaid: And that of the two perſons elected to be Sheriff, the one being commiſſionated by the Governor for the time being, the other ſhall not act as Under Sheriff in the ſaid county during that year for which he was elected. *And* that no perſon or perſons who hath

The Under Sheriff may not be one of the perſons choſen to be Sheriff.

Sheriffs having ſerved 3 years, may not be Under Sheriffs,

ſerved

(a) See before chap. 21. a. an act for the annual election of Sheriffs, &c.

ſerved in the office of Sheriff as aforeſaid for the ſpace of three years, ſhall be capable of being appointed, or ſerve in the office of Under Sheriff within the ſpace of three years next after his ſerving in the office of Sheriff as aforeſaid: And that, in like manner, no perſon or perſons who ſhall have ſerved in the office of Under Sheriff for the ſpace of three years ſucceſſively, in manner aforeſaid, or at any one time, ſhall again be elected or capable to ſerve as Sheriff of the ſaid county wherein he hath ſo ſerved, within the ſpace of three years next after his having ſerved as Under Sheriff as aforeſaid. *And* if any Sheriff or Under Sheriff within this government ſhall be elected or appointed contrary to this act, ſuch election and appointment ſhall be void. *And* if any Sheriff or Under Sheriff ſhall again enter upon and execute the office of Sheriff or Under Sheriff contrary to the directions of this act, he ſhall forfeit the ſum of Two Hundred Pounds, one moiety thereof to the Governor for the time being, the other moiety to ſuch perſon or perſons as will ſue for the ſame, to be recovered by action of debt, bill, plaint or information, in any Court of Record within this government.

within three years; nor Under Sheriffs, Sheriffs.

Elections, &c. contrary to this act, are void.

Penalty on Sheriffs, &c. acting contrary to this act.

Sect. 3. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons within this government, after the publication of this act, who ſhall ſtand as candidate, or make intereſt by himſelf or others, to be elected and returned for the office of Sheriff, ſhall preſume, by himſelf, or any other perſon or perſons whatſoever, to procure him or themſelves to be voted for or elected for the office of Sheriff as aforeſaid, by giving to any perſon or perſons, either by themſelves, or others in their behalf, or for their uſe or purpoſe, any gratuity, wages, gift, bribe, ſtrong drink of any kind, treats, entertainments, or any other reward whatſoever, or ſhall covenant, engage, promiſe or procure ſo to be done by himſelf or any other perſon or perſons, every perſon or perſons ſo offending, ſhall, for every ſuch offence, forfeit and pay the ſum of Ten Pounds current money of this government, to be, with coſts, recovered and applied in manner aforeſaid.

Penalty on candidates, bribing or treating electors.

CHAP. LXV.

13 Geo. II. Penalty on electors who accept any bribe, &c.

SECT. 4. *And* every perſon and perſons whatſoever, who ſhall by himſelf, or any other perſon or perſons, for his or their uſe, or by his or their means or procurement, preſume to take, accept or receive any ſuch gratuity, gift, bribe, ſtrong drink, treats, entertainments, or other reward whatſoever as aforeſaid, for giving any vote or votes, or cauſing or procuring any vote or votes to be given to any ſuch candidate, or perſon or perſons making intereſt by himſelf or others as aforeſaid, to be elected and returned to ſerve in the office of Sheriff as aforeſaid, every perſon or perſons ſo offending, ſhall, for every ſuch offence, forfeit and pay the ſum of Five Pounds, current money aforeſaid, to be recovered and applied in manner aforeſaid.

CHAP. LXVI. a.

An ACT *impoſing a duty on perſons convicted of heinous crimes, and to prevent poor and impotent perſons being imported into the government of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware. (a)*

Preamble.

WHEREAS many perſons trading into this government, have, for lucre and private gain, imported, ſold, or diſpoſed of, and daily do import paſſengers and ſervants into this government, who, by reaſon of age, impotence or indigence, have become a heavy burthen and charge upon the inhabitants thereof; and likewiſe, do frequently import divers perſons convicted of heinous crimes, who ſoon after their coming into this government, do often commit many felonies, robberies, thefts and burglaries, to the great hurt of his Majeſty's ſubjects trading to and inhabiting the ſame.

Importer of convicts ſhall pay 5 l. per head,

SECT. 2. *Be it therefore enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation*

(a) See a ſupplementary act hereto, chap. 114. a. paſſed 7 May, 1749. 22 Geo. II.

probation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That all maſters of veſſels, merchants, or others, who ſhall import, land or bring into any port or place belonging to this government, at any time after the publication of this act, any perſon in the condition of a ſervant, or otherwiſe within the intent and meaning of this act, who hath been convicted of any murder, burglary, rape, ſodomy, forgery, perjury, or any other felony, at any time before ſuch importation or coming into this government, ſhall, before the ſaid convicts be landed or put on ſhore, pay the ſum of Five Pounds for every ſuch convict ſo imported or otherwiſe brought in, the one moiety thereof to the Governor for the time being, for the ſupport of government, and the other moiety to the Collector appointed by this act, or the informer; and further, ſhall become bound with good and ſufficient ſecurity, to the Treaſurer of the county, where ſuch importation ſhall be made, for the time being, in the ſum of Fifty Pounds, for the good behaviour of ſuch convict perſon, for the ſpace of one year next after his or her importation or coming into this government.

and give ſecurity for their good behaviour.

SECT. 3. *And whereas* it hath been a practice for maſters of veſſels, merchants, and others, trading into this government, with intent to avoid complying with the payment of the duties, and giving the ſecurity, required by former acts of Aſſembly of this government, made to prevent the importation of convicts and poor and impotent perſons, to land their paſſengers, ſervants and convicts in ſome of the adjacent governments, which paſſengers, ſervants, impotent people and convicts, have afterwards been ſecretly brought into this government;

SECT. 4. *Therefore* to prevent ſuch practices for the future, *Be it enacted by the authority aforeſaid,* That if any ſuch convict as aforeſaid, or ſervant, or paſſenger, being poor and impotent perſons, ſhall be imported into the river Delaware, after the publication

Convicts, &c. found in this government within twelve months after their importation, may be apprehended and examined, &c.

CHAP. LXVI.

13 Geo. II.

tion of this act, and ſhall be found within this government at any time within the ſpace of twelve months, next after their being imported as aforeſaid, whether ſuch perſons were landed within this government or elſewhere, it ſhall and may be lawful for the Collector of the duties, appointed by this act in each county within this government, or any Juſtice of the Peace within the ſame, to cauſe to be apprehended, taken up, and to examine, upon oath or affirmation, all ſuch convicts as aforeſaid, or paſſengers, or ſervants, being poor and impotent perſons, and all other perſons who may be ſuppoſed to be able to make any diſcovery of the time and manner of their being imported or coming into this government, and from whence they came laſt, how long they have been come from beyond ſeas, of what country, and in what veſſel, and who was maſter or merchant of ſuch veſſel, and whether ſuch veſſel at the time of ſuch perſon or perſons being ſhipped or coming on board, was bound to or deſigned for this government, and whether ſuch perſon or perſons ſhipped themſelves with intent to come into this government: And if, upon examination, it ſhall appear to ſuch Collector or Collectors appointed by this act, in any county within this government, or any Juſtice of the Peace as aforeſaid, that the ſaid perſons were ſhipped or took their paſſages for this government, then the ſaid Collector or Collectors, or Juſtice of the Peace as aforeſaid, before whom ſuch examination ſhall be taken, ſhall demand and compel the perſons, if convicts, immediately to comply with the directions of this act, by paying the duties hereby impoſed on them, and giving the ſecurity directed in the caſe of convicts by this act; and ſhall be, and are hereby impowered and required to ſend for the maſter or merchant of ſuch veſſel, or either of them, in which ſuch perſons were ſuppoſed to be imported, and to examine ſuch maſter or merchant, upon their oath or affirmation, concerning the ſaid paſſengers, ſervants or convicts, and their importation or coming into this government; and if it ſhall appear that the ſaid perſons ſo apprehended, or any other perſons, being convicts as aforeſaid, were ſhipped and taken on

and ſhall be compelled immediately to comply with the directions of this act.

Penalty on maſter or merchant convicted of acting contrary to this act.

board

board to be imported into this government, and put on ſhore, or permitted to go on ſhore by ſuch maſter or merchant in any other government upon the river Delaware, or upon any iſland or place within the ſaid river, without making report, and complying with the directions of this act, then and in ſuch caſe, the ſaid maſter or merchant ſhall be obliged forthwith to give ſecurity for his appearance at the next Court of General Quarter Seſſions of the Peace, to be held for the county where ſuch examination is taken; and if, upon preſentment or information, he or they ſhall be legally convicted of ſuch fraudulent practice, he or they ſo offending ſhall forfeit the ſum of Twenty Pounds for every perſon ſo by him or them brought in as aforeſaid, and put or permitted to be put on ſhore, and afterwards, at any time within the ſpace of twelve months next after their being landed or put on ſhore, ſhall be found within this government, without making ſuch entry, and paying the duties, and giving the ſecurity required by this act, one half to the Governor for the time being, and the other to the Collector or informer, and ſhall further pay the ſame duties, and give the ſame ſecurity for ſuch convicts as aforeſaid, as if ſuch perſons had been imported into this government, and report thereof made according to the direction of this act.

Importer of perſons likely to become chargeable, ſhall give ſecurity to indemnify the inhabitants.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That upon information given to any two Juſtices of the Peace within this government, that any old perſons, infants, maimed, lunatick, or any vagabond or vagrant perſons are imported, come or brought into this government, *(b)* the ſaid juſtices to whom ſuch information ſhall be given, ſhall cauſe ſuch aged perſons, infants, or impotent or vagrant perſons to be brought before them, and if, upon examination, they ſhall judge that ſuch perſon or perſons are likely to become chargeable to the county where they are found or were imported, it ſhall and may

(b) See after in chap. 225. a. ſect. 11. "An act for the relief of the poor," paſſed March 29, 1775. And in chap. 218. b. ſect. 17. "An act for the better relief of the poor," paſſed January 29, 1791, further proviſion made.

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13 Geo. II.

may be lawful for the ſaid juſtices as aforeſaid, by warrant or otherwiſe, to ſend for the ſaid maſter, merchant, or other perſon who imported any ſuch infant, lunatick, aged, maimed, impotent or vagrant perſon or perſons as aforeſaid as are likely to become chargeable as aforeſaid, and upon proof made of their being the importers or owners of ſuch infant, lunatick, aged, maimed, impotent or vagrant perſons, who ſhall be judged to be likely to become chargeable as aforeſaid, the ſaid juſtices as aforeſaid, ſhall and may compel the ſaid maſter, merchant, or importer of ſuch infant, lunatick, maimed, aged, impotent or vagrant perſon or perſons, to give ſufficient ſecurity to carry and tranſport ſuch infant, lunatick, maimed, aged, impotent or vagrant perſon or perſons to the place or places from whence ſuch perſon or perſons were imported, or otherwiſe to indemnify the inhabitants of this government from any charge that may come or be brought upon them by ſuch infant, lunatick, maimed, aged, impotent or vagrant perſon coming into or living within this government.

Perſons aggrieved, may appeal to the Court of QuarterSeſſions.

SECT. 6. *Provided always*, That if any perſon or perſons ſhall apprehend him or themſelves aggrieved with any ſuch order or judgment of the juſtices aforeſaid, who ſhall maket he ſame, the perſon or perſons ſo aggrieved, may appeal to the next Court of General Quarter Seſſions of the Peace to be held for the county where ſuch order ſhall be made, whoſe judgment then ſhall be final; but before ſuch appeal ſhall be allowed of, the perſon or perſons appealing ſhall enter into recognizance with one good ſurety, at leaſt, to pay the coſts and charges of ſuch appeal, in caſe the ſaid order ſhall happen to be confirmed.

Maſters of veſſels, &c. to give an account, on oath, of the names of all ſervants, paſſengers, &c.

SECT. 7. *And* for the better diſcovery of ſuch convicts, and poor and impotent, or idle, or vagrant perſons, who ſhall hereafter be imported into, and ſhall be likely to become chargeable to the inhabitants of this government, *Be it further enacted by the authority aforeſaid*, That all maſters of veſſels, merchants and others, who ſhall hereafter bring into any port or place belonging to this government, by land or water, any men or women paſſengers or ſervants, ſhall, within the ſpace of twenty-four hours after their

arrival

arrival into any port or place within this government, make entry, and give or cauſe to be given, upon oath or affirmation, to the Collector of the ſaid duties where ſuch importation is made, a true and juſt account of all the names of the ſervants and paſſengers ſo imported or brought in; and the ſaid Collector or Collectors as aforeſaid, are hereby impowered and enjoined, immediately, by warrant or otherwiſe, to call before them the ſaid merchant, maſter, or other perſon or perſons importing ſuch ſervants or paſſengers as aforeſaid, and to examine, upon oath or aſſirmation, the ſaid maſter, merchant, or other perſon or perſons importing ſuch ſervant or ſervants, or paſſengers as aforeſaid, and all other perſon or perſons who may be ſuppoſed to have any knowledge of the character or circumſtances of ſuch ſervants or paſſengers, and thereupon ſhall grant unto the maſter, merchant or owner, or other perſon having the charge or care of any ſervant or ſervants, or paſſengers ſo imported or brought into this government, a certificate, containing the names of all the ſervants or paſſengers which ſuch Collector or Collectors ſhall judge fit to be landed or diſpoſed of as ſervants, and do not appear to him or them to have been formerly convicted of any of the crimes mentioned in this act, or ſuch as do not appear to him or them to be ſuch infants, lunatic, maimed, aged, impotent or vagrant perſons, as he or they ſhall judge likely to become chargeable to the inhabitants of this government; for which examination, permit and certificate, there ſhall be paid to the ſaid Collector, where ſuch importation is made, the ſum of Six-pence, for every perſon ſo imported; and there ſhall likewiſe be paid to the Collector or Collectors as aforeſaid for each bond he ſhall take in purſuance of any thing required to be done by virtue of this act, the ſum of Two Shillings and Six-pence, and no more.

And ſhall have a certificate of the names of ſuch as are fit to be landed.

Fees to the Collector.

SECT. 8. *Provided nevertheleſs, and it is hereby further enacted by the authority aforeſaid,* That if after ſuch examination taken, and certificate granted, as aforeſaid, it ſhall be made appear, that any of the ſaid perſons ſo landed or imported are convicts, the maſter, merchant, or other perſon who imported ſuch convict

Duty to be paid, &c. notwithſtanding the certificate granted, if it afterward appears, that any of the perſons imported are convicts.

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or convicts, ſhall be liable to pay the ſame duty, and give the ſame ſecurity, as if no ſuch examination had been taken, or certificate granted, any thing in this act contained to the contrary notwithſtanding.

Penalty on maſter, merchant, &c. not complying with the directions of this act.

SECT. 9. *And* if any ſervant or ſervants, or convict, or other perſon, ſhall be imported or brought into and landed in any port or place within this government, without making ſuch entry, as aforeſaid, in the manner before directed, and paying the duty, and giving the ſecurity required by this act, and within the time limited by this act for that purpoſe, and obtaining ſuch certificate from the Collector or Collectors, as aforeſaid, every ſuch maſter of a veſſel, merchant and other perſon, ſo importing, bringing in or landing ſuch ſervants or other perſons, ſhall forfeit and pay, for each ſervant or other perſon ſo imported, brought in or landed, contrary to the directions of this act, the ſum of Ten Pounds, one half, after the charge of proſecution deducted, to the Governor for the time being, for the ſupport of government, and the other half, after ſuch charges deducted, as aforeſaid, to the Collector where ſuch importation ſhall be made, or to ſuch perſon or perſons as will ſue for the ſame in any Court of Record within this government, by bill, plaint, or information, wherein no eſſoin, protection or wager of law ſhall be allowed.

Perſons obliged to make entry, ſhall apply to the Collectors.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That all perſons obliged by this act to make entry as aforeſaid, ſhall apply to John Finney, eſq. for the county of New-Caſtle, John Holliday, eſq. for the county of Kent, and Simon Kollock, eſq. for the county of Suſſex, who are hereby appointed Collectors of the ſaid duties hereby impoſed, without any notice or requeſt made by them.

Who are impowered to receive, demand, &c.

SECT. 11. *And* the ſaid Collectors, and every of them, are hereby impowered to receive, collect, demand and recover, from all perſons importing, landing, or bringing in any ſervant or ſervants, or other perſons, into any port or place within this government, all forfeitures and penalties herein before appointed to be ſet, impoſed and levied by virtue of this act.

SECT.

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13 Geo. II. In case of death, &c. of any Collector, the Governor may appoint another.

SECT. 12. *And be it further enacted by the authority aforesaid*, That in case of the death or removal of any of the Collectors or officers appointed by this act, it shall and may be lawful for the Governor for the time being, to nominate and appoint some fit and proper person to execute the said office, in the room and stead of the person so deceased or removed.

CHAP. LXVII. a.

An ACT *against drunkenness, blasphemy; and to prevent the grievous sins of prophane cursing, swearing and blasphemy*

Preamble.

WHEREAS many persons of vicious lives and morals, make a common practice of getting drunk, and prophane cursing and swearing, and blasphemy, to the great dishonour of Almighty God, the scandal of our christian profession and civil society, and the evil example of others; For the discouragement and just punishment whereof,

Penalty on drunkedness.

SECTION 2. *BE it enacted by the honorable George Thomas, esq. by and with his Majesty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Castle, Kent, and Sussex, on Delaware, and province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties, in General Assembly met, and by the authority of the same*, That all and every person and persons being drunk, and being thereof convicted, by view of one Justice of the Peace, the testimony of one lawful witness, or confession of the party before any one Justice of the Peace within this government, shall forfeit or pay the sum of Five Shillings for every such offence, to be levied by a warrant, under the hand and seal of such justice before whom the party shall be convicted, upon the goods and chattels of the offender, to be applied to the relief of the poor of the town or hundred where the offence is committed; and if no such goods can be found, the party offending shall be

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ſet in the ſtocks, there to remain for the ſpace of two hours.

Penalty on abuſing or threatning courts or juſtices, &c.

SECT. 3. *And* in caſe any offender or offenders againſt this act, or any other perſon or perſons, taken or arreſted by the warrant, order or command of any Court or Juſtice of the Peace within this government, ſhall uſe any abuſive, reviling or threatning ſpeeches againſt ſuch court or juſtice, or reſiſt or aſſault the perſon or perſons executing ſuch warrant or order, and be thereof convicted, ſhall be deemed a breaker of the peace, and ſhall be fined in any ſum not exceeding Five Pounds, to be paid to the Governor, for the ſupport of government. *And* in caſe the party aggrieved, reſiſted or aſſaulted, ſhall ſue ſuch offender, for ſuch reſiſtance or aſſault, he ſhall recover treble damages; and the party offending ſhall be bound to his or her good behaviour.

Penalty on prophane curſing and ſwearing.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That if any perſon within this government, ſhall, in the hearing of any one Juſtice of the Peace, in his or her common converſation, prophanely ſwear, by the name of God, Chriſt Jeſus, or the Holy Spirit, or curſe himſelf or any other perſon, and be duly convicted thereof, by one or more credible witneſſes, before any one Juſtice of the Peace of the town or county where ſuch offence is committed, the perſon ſo offending ſhall, for every ſuch offence, forfeit and pay the ſum of Five Shillings, to be levied on his or her goods and chattels, by warrant under the hand and ſeal of the juſtice before whom the offence is committed or conviction made, for the uſe of the poor of the town or hundred where the offence is committed, or the party offending ſhall be ſet in the ſtocks, there to remain any time not exceeding three hours.

Puniſhment of blaſphemy.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall willfully or premeditately be guilty of blaſphemy, and ſhall thereof be legally convicted, the perſon ſo offending ſhall, for every ſuch offence, be ſet in the pillory for the ſpace of two hours, and be branded in his or her forehead with the letter B, and be publicly whipt, on his or her bare back, with thirty-nine laſhes well laid on.

CHAP.

CHAP. LXVIII. a.

CHAP. LXVIII.

13 Geo. II.

An ACT *providing for the ſecurity and defence of the town of Lewes, in the county of Suſſex, within this government.*

WHEREAS the inhabitants of the town of Lewes having heretofore ſuffered, and now are in danger of ſuffering by the depredations and inſults of privateers and pirates; for prevention whereof, Preamble.

SECTION 2. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor, and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That it ſhall and may be lawful to and for the Governor for the time being, from time to time, and at all times hereafter, to commiſſion and impower two ſufficient and well-qualified perſons or officers, in the ſaid town of Lewes, to keep a military watch within the ſaid town, or in ſuch place and places within the limits herein after particularly deſcribed, conſiſting of ſuch perſons, under ſuch regulations, and at ſuch times as to them, or either of them, ſhall ſeem neceſſary. The Governor may appoint officers to keep a watch in Lewes, &c.

SECT. 3. *And* that all the inhabitants and freemen within theſe limits, *That is to ſay*, from the mouth of Canary-Run and Pagan-Creek, to Southern's-Run, at the King's-Road, from thence to the head of Pothook Creek, from thence down to Lewes Creek, and from thence down the ſaid Lewes Creek, to the mouth of Canary Creek aforeſaid, within the ſaid county of Suſſex, ſhall each of them provide and keep, when thereunto required by the ſaid officer or officers, theſe following arms, *to wit*, a well-fixed firelock or muſket, one cartouch-box, with twelve ſufficient charges of gun-powder and ball therein, three good flints, a worm and priming-wire, to be approved by the ſaid officer or officers; and if any inhabitant or freeman, as aforeſaid, within the limits aforeſaid, ſhall, for the ſpace of one month next after Limits. Arms to be provided.

ter

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ter notice given him by the ſaid officer or officers, neglect or refuſe to provide the arms aforeſaid, or to produce them to the ſaid officer or officers, when thereunto commanded, and be thereof convicted before any one Juſtice of the Peace for the ſaid county, every ſuch perſon ſo offending, ſhall, for the firſt offence or neglect, pay to the ſaid officer or officers the ſum of Ten Shillings, and afterwards, for every ſuch refuſal or neglect, monthly the ſum of Twenty Shillings, to be recovered, together with coſts, by diſtreſs and ſale of the offenders goods and chattels, by warrant under the hand and ſeal of the ſaid juſtice; and if no ſuch goods or chattels ſhall be found, the offender ſhall be committed to the gaol of the ſaid county, there to remain the ſpace of ten days, for every ſuch offence.

Penalty on neglect, &c. to provide them.

Obedience to the officers enjoined.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all the ſaid inhabitants and freemen, within the ſaid town of Lewes and limits aforeſaid, ſhall yield obedience to the ſaid officers, and to each of them, in all things relating to the aforeſaid watch, and the defence of the ſaid town and limits aforeſaid: And if any perſon, being an inhabitant or freeman within the ſaid limits, ſhall wilfully refuſe or neglect to give his attendance, when commanded by the ſaid officer or officers, or diſobey them, or either of them, in any matter or thing relating to the watch or defence aforeſaid, every ſuch perſon ſo offending, upon conviction and due proof thereof made before any one Juſtice of the Peace for the ſaid county, ſhall, for every ſuch offence, forfeit and pay to the ſaid officer or officers the ſum of Five Shillings, to be recovered, together with coſts, in manner aforeſaid.

Penalty on non-attendance or diſobedience.

Days and times of exerciſe.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the ſaid officer and officers, for the time being, are hereby empowered and required to call together all and every the inhabitants and freemen within the limits aforeſaid, once in every month, between the firſt day of April and the firſt day of October, and once in every three months, between the firſt day of October and the firſt day of April, yearly, to exerciſe or train the ſaid inhabitants or freemen, and to view their arms and ammunition, that they be in good order, and fit for ſervice, on all occaſions;

And

And if any perſon or perſons, having due notice, ſhall neglect or refuſe to attend, or attending, ſhall wilfully diſobey the commands of ſuch officer or officers, or thoſe impowered by them, or either of them, every ſuch perſon ſo offending, upon conviction and due proof thereof made as aforeſaid, ſhall, for every ſuch offence, forfeit and pay to the ſaid officer or officers the ſum of Five Shillings, to be recovered, together with coſts, in manner aforeſaid. Penalty.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That the firing three guns ſucceſſively, or one after another, and the beating of a drum, ſhall be deemed and taken for an alarm; and that upon every ſuch alarm given, all the inhabitants and freemen within the limits aforeſaid, ſhall forthwith, either in the day-time, or in the night, repair with their arms and ammunition, to the Market-ſtreet of the ſaid town of Lewes, and from thence whitherſoever the Commanding Officer ſhall direct, and ſhall obey all and every the commands of the ſaid officer and officers, and thoſe impowered by them for the defending of the ſaid town of Lewes and limits, from any invaſion or deſcent which ſhall happen to be made, and ſhall not depart without the leave of the ſaid officer or officers firſt had and obtained: And if any perſon, being an inhabitant or freeman within the limits aforeſaid, ſhall, upon ſuch alarm given, refuſe or neglect to attend, with his arms and ammunition, at the ſaid Market-ſtreet, or ſuch other place or places whitherſoever he ſhall be commanded by the ſaid officer or officers, or thoſe impowered by them, or either of them; or depart without leave had, as aforeſaid, every ſuch perſon ſo offending, upon conviction and due proof thereof, made before any two Juſtices of the Peace for the ſaid county, ſhall forfeit and pay to the ſaid officer or officers the ſum of Five Pounds, to be recovered, together with coſts, by diſtreſs and ſale of the offenders goods and chattels, by warrant under the hands and ſeals of the ſaid juſtices; and if no ſuch goods or chattels ſhall be found, the offender, for every ſuch offence, ſhall be committed to the gaol of the ſaid county, there to remain for the ſpace of two months. *And* if any perſon

What ſhall be an alarm.

Place of rendezvous.

Penalty on non-appearance at an alarm.

CHAP. LXVIII. 13 Geo. II.

perſon or perſons ſhall, without the command of the ſaid officer or officers, or of ſuch perſon or perſons whom they ſhall impower, preſume to make an alarm within the limits aforeſaid, every ſuch perſon ſo offending, and being thereof legally convicted before any court of juſtice for the ſaid county, ſhall, for every ſuch offence, be fined in the ſum of Five Pounds, to be paid, the one moiety thereof to the ſaid officer or officers for the time being, the other moiety to the informer.

Penalty on making an alarm, without the command of the officer, &c.

No pilot ſhall go on board veſſels, inward bound, without licence:

SECT. 7. *And* for prevention of the danger that may ariſe by the piloting into the bay and river Delaware the ſhips of enemies and pirates, *Be it further enacted by the authority aforeſaid*, That no perſon or perſons, who are or ſhall be pilots within the bay and river aforeſaid, ſhall preſume to go on board any inward-bound veſſels, without the licence of the Governor for the time being, firſt had and obtained, or the leave or licence of ſuch perſon or perſons as ſhall or may be appointed by him for that purpoſe, upon pain of forfeiting the ſum of Ten Pounds, the one half thereof to the uſe of the Governor for the time being, the other half thereof to the uſe of ſuch perſon or perſons as will ſue for the ſame, to be recovered in any Court of Record within this government; and all pilots within the bay and river aforeſaid are hereby obliged to take notice of the ſame.

Penalty.

How the fines ſhall be diſpoſed of.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That all the fines and forfeitures ariſing by virtue of this act, and which the ſaid officer or officers ſhall receive, ſhall by him or them be laid out for the purchaſing arms and ammunition for the ſaid town of Lewes; and the ſaid officer and officers ſhall from time to time keep juſt and fair accounts thereof, which ſhall by him and them, once in every year, be laid before and approved by the Juſtices of the ſaid Court of Quarter Seſſions for the ſaid county, at the time of laying the levies.

erſons whoſe ttendance is fuſed.

SECT. 9. *Provided always, and be it further enacted by the authority aforeſaid*, That no perſon or perſons under the age of fifteen years, or above ſixty-three, and that no perſon or perſons, producing to the ſaid officer or officers a certificate from the meeting he or they

they frequent, and whose religious persuasion is against bearing or using arms, shall, by this act, be obliged to give his or their attendance, or be liable to any of the fines or forfeitures mentioned in this act, any thing therein contained to the contrary notwithstanding.

CHAP. LXIX. a.

An ACT *about boats and canoes.*

The taker-up of boats or canoes shall give notice, &c.

SECTION. 1. BE *it enacted by the honorable George Thomas, esq. by and with his Majesty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Castle, Kent, and Sussex, upon Delaware, and province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties, in General Assembly met, and by the authority of the same,* That if any person or persons within this government shall take up any boat or canoe, being adrift, and secure the same, the taker-up of such boat or canoe shall forthwith, at the reasonable charge of the owner, if known, send him or her notice thereof; if not known, shall advertise the same in three of the most public places of the town or hundred where the same are taken up, on penalty of making good to the owner all the damages he or she shall sustain by the want of such boat or canoe after being taken up.

His reward.

SECT. 2. *And* that the taker-up of a boat or canoe shall receive, as a reward from the owner thereof, the sum of Five Shillings for a boat, and Two Shillings and Six-pence for a canoe.

Penalty on carrying away or setting adrift boats, &c.

SECT. 3. *And* if any person or persons shall at any time, after the publication of this act, take, carry away, or set adrift any boat or canoe from any landing or other place within the said counties, or within one hundred yards of any shore or landing-place within this government, without the leave or consent of the owner or possessor of such boat or canoe, and be thereof convicted before any one Justice of the

Peace

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Peace of this government, he or ſhe ſhall pay to the party aggrieved, all ſuch damages, coſts and charges, as ſhall be awarded by the juſtice before whom the complaint ſhall be brought, ſo as the coſts and damages do not in the whole amount to above Forty Shillings.

CHAP. LXX. a.

An ACT *for regulating fences within this government.* (a)

Poſt and rail fences to be four foot and half high; worm fences five foot.

SECTION 1. BE *it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame.* That corn-fields and ground kept for incloſures ſhall be fenced with a poſt and rail-fence, or worm-fence, well ſtaked and ridered, at leaſt four feet and an half high from the top of the upper-rail or rider to the ground; and all worm-fences not ſtaked and ridered ſhall be at leaſt five feet high from the top of the upper-rail to the ground: *And* if any horſes, kine, ſheep, hogs or goats, or any kind of cattle, ſhall break into any perſon's incloſure, the ſame being found by the perſons to be appointed viewers, according to the direction of this act, to be of the height and ſufficiency aforeſaid, then the owner of ſuch horſes, ſheep, goats or cattle, ſhall be liable to make good all ſuch damages to the owner of ſuch incloſure, as ſhall be found and awarded by the ſaid viewers, upon their oath or affirmation

If horſes, &c. break through ſuch fences, the owner of the creatures to make good the damage.

(a) See a ſupplementary act hereto paſſed March 24. 1770. chap. 198. a. temporary, but made perpetual after in chap. 215. a. April 12, 1773. Partition fences in the borough of Wilmington, regulated by a ſpecial act, paſſed June 13, 1772. chap. 206. a. ſects. 10, 11.

firmation made before ſome Juſtice of the Peace of the county where the treſpaſs is committed, to be levied, together with coſts, by warrant under the hand and ſeal of the juſtice before whom ſuch oath or affirmation ſhall be made, on the goods and chattels of the owners of ſuch cattle ſo treſpaſſing.

Penalty on perſons owning unruly cattle, not taking care to reſtrain them.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That all perſons having any unruly horſes, ſheep, goats or cattle as aforeſaid, not to be kept off by ſuch fences as aforeſaid, and notice being firſt given to him, her or them, of ſuch creatures being unruly, are ordered, and ſhall be obliged to take effectual care to reſtrain the ſame from treſpaſſing on any perſon's incloſures, upon penalty of Five Shillings, or double damages for every ſuch treſpaſs, at the election of the party injured, to be levied, together with coſts, in manner aforeſaid.

Diviſion-fences to be made and maintained equally by both parties.

SECT. 3. *And Be it further enacted by the authority aforeſaid*, That where any perſon or perſons ſhall incloſe any land adjoining to another's land already incloſed with a fence, ſo that any part of the fence firſt made become the partition between them, in ſuch caſe the charge of ſuch diviſion-fence, ſo far as is incloſed on both ſides, ſhall be equally borne and maintained by both parties; to which end, and the others mentioned in this act, each county-court within this government ſhall nominate, and are hereby impowered and required, at their reſpective Courts of Quarter Seſſions, to be held in the month of May every year, *(b)* to nominate and appoint ſo many proper perſons as they ſhall think fit for each hundred, in each county reſpectively, to view all ſuch fence and fences about which any difference may happen to ariſe: And that the aforeſaid perſons, in each hundred reſpectively, ſhall be the ſole judges of the charge to be borne by both or either of the ſaid parties, and of the ſufficiency of all fences, whether partition or other fences, and of the damages ſuſtained by means of any creature's treſpaſſing within the true intent and meaning of this act; and where they

Viewers to be appointed.

Who ſhall be ſole judges;

(b) See chap. 61. c. ſect. 6. paſſed Feb. 7, 1794.

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they judge any fence to be inſufficient, they ſhall give notice thereof to the owners or poſſeſſors; and if one of the ſaid owners and poſſeſſors, upon the requeſt of the other, and due notice given by the ſaid viewers, ſhall refuſe to make or repair the ſaid fence or fences, or pay the moiety of any fence before made, being a diviſion-fence, within five days after notice given, that then, upon proof thereof before two Juſtices of the Peace of the reſpective county, it ſhall be lawful for the ſaid juſtices to order the perſon aggrieved and ſuffering thereby, to repair the ſaid fence or fences, who ſhall be reimburſed double his coſts and charges from the perſon ſo refuſing to make good the ſaid partition-fence; and that the ſaid coſts and charges, together with the damages in reſpect of partition-fences as aforeſaid, to be aſſeſſed by virtue of this act, ſhall be levied by diſtreſs and ſale of the offender's goods and chattels, by warrant from the ſaid juſtices, and the overplus, if any be, to be returned to the owner thereof; and the ſaid viewers to be allowed Two Shillings each for viewing ſuch fence ſo complained againſt, and aſſeſſing the damages ſuſtained by treſpaſs, and Two Pence per mile each, for travelling-charges.

Their allowance.

SECT. 4. *Provided always, and be it further enacted by the authority aforeſaid*, That nothing in this act contained ſhall be conſtrued, deemed or taken to repeal or make null or void an act of General Aſſembly of this government, entituled, *An act for erecting a pound in the town of New-Caſtle*, or any part thereof; but that the ſame ſhall continue and be in full force, any thing herein contained to the contrary in any wiſe notwithſtanding.

CHAP.

CHAP. LXXI. a.

CHAP. LXXI.

13 Geo. II.

An ACT *for eſtabliſhing a market in the town of New-Caſtle, for appointing a Clerk of the Market, and directing the aſſize of bread.*

Preamble.

WHEREAS the want of a regular market in the town of New-Caſtle, in the county of New-Caſtle, within this government, hath been attended with great inconveniencies to the inhabitants thereof, as well as to ſuch perſons who offer proviſions to ſale in the ſaid town: for remedy whereof,

SECTION 2. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act, no perſon or perſons whatſoever, ſhall preſume either to buy or ſell any kind of proviſions (fiſh, milk and bread excepted) on market-days, within any part of the town of New-Caſtle but at the public Market-houſe, under the penalty of forfeiting, both by the buyer and ſeller, all ſuch proviſions ſo ſold or bought, or the value thereof, to be levied, together with coſts, by the Clerk of the Market, for the uſe of the poor of the town and hundred of New-Caſtle, by diſtreſs and ſale of the offender's goods and chattels reſpectively, by warrant under the hand and ſeal of any one Juſtice of the Peace of the ſaid town or county.

No proviſion to be ſold on market-days but at the Market-houſe, on pain of forfeiture.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons, ſhall preſume to bring to market and ſell, or offer to ſale, any meat or fleſh that ſhall be poor, lean, or carrion, or any other proviſion, not ſound and wholeſome, every perſon ſo offending, ſhall forfeit the ſame, if ſound and wholeſome, to the uſe of the priſoners in the common gaol of the ſaid town or county, if unwholeſome or unſound, to be thrown into the river.

Poor lean meat, &c. ſhall be forfeited, &c.

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SECT. 4. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons whatſoever, ſhall preſume to kill or ſlay any cattle, ſheep, calves or hogs, within the ſaid Market-houſe, on penalty of forfeiting the ſum of Five Shillings for every ſuch offence, to be levied as aforeſaid, and applied to the uſe of the poor of the town and hundred aforeſaid.

Penalty on ſlaughtering in the Market-houſe.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons whatſoever, ſhall, by themſelves or others, either ſell or offer to ſale, any butter, cheeſe, tallow, or any ſort of proviſions, by any falſe weights, or for more weight than the ſame ſhall be found to be, by trial of the ſaid Clerk of the Market, for the time being, upon complaint made, ſuch perſon or perſons ſhall, for every ſuch offence, forfeit ſuch butter, cheeſe, tallow or proviſion, ſo ſold or offered to ſale, as aforeſaid; to the uſe of the poor of the town and hundred aforeſaid; and the Clerk of the Market is hereby impowered to ſeize the ſame.

Proviſion, &c. ſold by falſe weights, or wanting weight, ſhall be forfeited.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That at all times hereafter, every Wedneſday and Saturday in each week, and no other days whatſoever, ſhall be deemed and taken for the public and regular Market-days of the ſaid town of New-Caſtle.

Wedneſday and Saturday ſhall be the market-days.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons whatſoever, ſhall preſume to hawk or carry about the ſaid town of New-Caſtle, or expoſe to ſale in the market-houſe within the ſame, any fleſh meat, on the Tueſdays or Fridays in each week, except in the months of June, July, and Auguſt, on pain of forfeiting ſuch fleſh meat, or the value thereof, one half thereof to the uſe of the poor of the town and hundred of New-Caſtle, the other half to the uſe of the Clerk of the Market, to be recovered in like manner as other forfeitures are directed to be recovered by this act.

Fleſh meat expoſed to ſale on Tueſdays or Fridays, ſhall be forfeited, except, &c.

SECT. 8. *And* for preventing frauds that may happen to be committed by public bakers of bread for ſale, in the ſaid town of New-Caſtle: *Be it enacted by the authority aforeſaid*, That from and after the publication of this act, every baker or bakers of bread for ſale, in the ſaid town of New-Caſtle, ſhall, and

Bakers ſhall mark their bread, on penalty of 5 s.

are

are hereby directed and required, to make or impreſs ſome mark, letter or name of ſuch baker, on every ſuch bread as he or ſhe ſhall bake for ſale, as aforeſaid, on penalty of forfeiting and paying, for every ſuch neglect, the ſum of Five Shillings to the Clerk of the Market, for the time being.

Juſtices impowered to appoint the ſize and weight of bread.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That the Juſtices of the Court of Quarter Seſſions, ſhall, and are hereby impowered and required, from time to time, at their Quarterly Seſſions of the Peace for the ſaid county, to ſettle and appoint the ſize and weight of the ſeveral ſorts of bread, which ſhall be baked for ſale in the ſaid town of New-Caſtle. *And* all bakers in the ſaid town, ſhall conform themſelves, and make the bread, by them baked for ſale, agreeable thereto, on pain of forfeiting, for every ſuch offence, all ſuch bread, as upon trial of the Clerk of the Market, ſhall be found to be of leſſer weight; to be, by the ſaid clerk, ſeized for the uſe of the poor of the ſaid town and hundred, and Five Shillings to the ſaid clerk, to be recovered as aforeſaid.

Penalty on not conforming to ſuch appointment.

SECT. 10. *And* that no baker ſhall, upon any pretence whatſoever, make any different or other ſorts of bread for ſale, but ſuch as ſhall, by the Juſtices of the ſaid Court of Quarter Seſſions, be directed and appointed, under the penalty of forfeiting the ſame, as aforeſaid, to be applied in manner aforeſaid.

Philip Van Leuvenigh appointed Clerk of the Market.

SECT. 11. *And be it further enacted by the authority aforeſaid*, That Philip Van Leuvenigh of the ſaid town is hereby appointed and conſtituted Clerk of the aforeſaid Market of the ſaid town of New-Caſtle, who is hereby ſtrictly charged and commanded, to put this act, and every part thereof, in execution; and impowered to receive, demand and recover all ſuch penalties, fines and forfeitures, as in this act are directed to be forfeited and paid, and to enter into all ſuch places and houſes where he ſhall ſuſpect any ſuch bread to be, which is not made agreeable to the directions of this act, and to examine the weights, and try the ſame, for the purpoſes in this act before directed.

SECT. 12. *And* the ſaid Clerk is hereby directed and

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and required to keep a fair and juſt account of all fines, forfeitures and penalties, that he ſhall receive by virtue of this act, and ſettle ſuch account, once in every year, with the Overſeers of the Poor of the town and hundred aforeſaid for the time being, and pay to them all ſuch ſum and ſums of money as ſhall by him be received for the uſe of the ſaid poor.

Who ſhall keep fair accounts.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That the clerk of the ſaid market, hereby appointed, or that ſhall hereafter be appointed by virtue of this act, is hereby impowered to make, erect, allot and lett out for hire, ſtalls or booths for accommodating ſuch perſons as ſhall attend the fairs held within the ſaid town of New-Caſtle, upon the green, according to the uſual cuſtom and uſage thereof, and lett out the ſame on hire, for ſuch ſum and ſums of money as any three of the juſtices of the ſaid county ſhall appoint and direct: *And* for encouragement and ſatisfaction for his care in executing this act, the ſaid clerk ſhall receive and take to his own uſe the whole hire of the ſtalls erected on the ſaid green, and one moiety of the rents of the ſtalls in the ſaid market-houſe, and the other moiety thereof, to be received by the ſaid clerk, ſhall by him be paid to the Treaſurer of the ſaid county, to remain in his hands, until the ſame, by the ſaid Treaſurer, ſhall be applied to ſuch uſe and uſes as the Juſtices of the ſaid Court of Quarter Seſſions ſhall from time to time ſee fit to order and direct; and that no perſon or perſons whatſoever, who are not inhabitants of the ſaid county, ſhall, without the approbation of the ſaid clerk, make or erect any ſuch ſtalls or booths as aforeſaid.

The ſaid clerk may erect booths and ſtalls, and lett them at the fairs.

His reward for putting this act in execution.

SECT. 14. *And be it further enacted by the authority aforeſaid*, That upon the death, refuſal, removal or inability of the Clerk of the ſaid Market appointed by virtue of this act, the Governor for the time being may, and is hereby impowered to appoint from time to time, as often as there ſhall be occaſion, ſome fit and diſcreet perſon to ſerve in the office of Clerk of the ſaid Market; which ſaid Clerk of the Market, hereby appointed, or that ſhall hereafter be appointed by virtue of this act, before he ſhall preſume to enter upon his ſaid office, or execute the truſt repoſed

The clerk dying, &c. the Governor may appoint another.

posed in him, shall first take an oath or affirmation before some Justice of the Peace of the said county of New-Castle, *That he shall and will well and truly demean and behave himself in the Office of Clerk of the Market aforesaid, and impartially discharge the trust reposed in him by virtue of this act, during his continuance in that office.*

His oath.

Sect. 15. *And be it further enacted by the authority aforesaid,* That the several acts of General Assembly of this government heretofore made for regulating any market, the assize of bread, or for appointing a Clerk of the Market within the said town of New-Castle, shall be and are hereby repealed, made null and void, any thing in the said acts contained to the contrary in any wise notwithstanding.

Repeal of former acts.

CHAP. LXXII. a.

An ACT *about departers out of this government.*

Section 1. BE *it enacted by the honorable George Thomas, esq. by and with his Majesty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Castle, Kent, and Sussex, upon Delaware, and province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties, in General Assembly met, and by the authority of the same,* That no person or persons whatsoever shall presume to depart this his Majesty's government, who hath resided three months, next before his departure, in any of the counties of this government, but shall first signify the same in writing under his hand, affixed upon the Court-House door, in the county wherein he shall reside, at least thirty days before his departure, or shall have a certificate under the hands and seals of two Justices of the Peace of the county.

Departers shall publish their design 30 days before they leave the government, &c.

Sect. 2. *And* if any person or persons shall presume to transport or convey, or be aiding or assisting to the transporting or conveying any person or persons out of this government, either by land or water, that hath

Otherwise those who transport them, &c. are liable to pay all damages.

not

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not complied with this act, he or they ſhall make good and pay to the party or parties aggrieved all damages that ſhall accrue by reaſon of his or their aiding, aſſiſting, tranſporting or carrying away any ſuch perſon or perſons as aforeſaid, to be recovered by bill, plaint or information in any of his Majeſty's Courts of Record within this government.

Deeds, &c. given by departers, void in reſpect of their creditors.

SECT, 3. *And be it further enacted by the authority aforeſaid*, That all deeds and bills of ſale privately and clandeſtinely given for lands or goods by ſuch departers, ſhall be void, in reſpect of the creditors of ſuch perſon or perſons ſo departing this government without ſuch notice or certificate as aforeſaid. *(a)*

CHAP. LXXIII. a.

An ACT *for determining debts under Forty Shillings.* *(b)*

Juſtices impowered to iſſue warrants &c. in debts under 40s. commanding, &c.

SECTION 1. FOR the recovery of debts under Forty Shillings, *Be it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That upon complaint made to any Juſtice of the Peace within this government againſt any perſon or perſons for any debt under Forty Shillings, it ſhall and may be lawful to and for ſuch juſtice, and he is hereby impowered and required to iſſue out his warrant in the nature of a ſummons or *capias*, as the caſe may require, directed to ſome Conſtable of the hundred or county, commanding to bring, or cauſe ſuch defendant to come before him

(a) See alſo after in chap. 82. a. 15 Geo. II. "An act to prevent frauds by clandeſtine bills of ſale."

(b) See "An act for the more eaſy and ſpeedy recovery of ſmall debts," to wit, for the value of Forty Shillings and upwards, and not exceeding Twelve Pounds, except as therein is excepted, in chap. 250. b. paſſed Feb. 4, 1792.

him or ſome other Juſtice of the Peace of the ſame county; and when ſuch juſtice ſhall have heard the proofs and allegations of both parties, or ſuch of them as ſhall be preſent at ſuch time and place as he ſhall appoint, he ſhall give his judgment in the matter according to the very right of the cauſe, which judgment ſhall be final and concluſive to both plaintiff and defendant, without further appeal, and execution, if required, ſhall be awarded by him againſt the perſon refuſing to comply with ſuch judgment, directed to ſome conſtable, to levy the ſame upon the goods and chattels of the party ſo refuſing, *(c)* and for want of ſuch goods and chattles, to take the body of the ſaid non-complying party, and him or her to commit to the gaol of the county, until the debt and coſts be ſatisfied. *(d)*

And to give judgment, and award execution.

SECT. 2. *And* the Juſtice who gives ſuch judgment, ſhall keep fair entries of the names of the complainants and defendants, and of the debt or ſum contained in ſuch judgment, with the day and year when ſuch judgment was given.

Juſtices ſhall keep fair entries, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That if any perſon ſhall abſent him or herſelf out of this government, or conceal him or herſelf, ſo that he or ſhe cannot be taken to anſwer his or her juſt debts, it ſhall and may be lawful for any Juſtice of the Peace of the county where ſuch perſon's goods or effects are, upon oath or affirmation made of the truth of the debt, and that the defendant is gone out of the government, as is believed, or doth conceal him or herſelf, ſo that he or ſhe cannot be taken, and that the complainant is in danger of loſing his or her debt, to grant a warrant of attachment for any debt under Forty Shillings, directed to ſome Conſtable of the county, to attach the goods and chattels, or other effects of ſuch perſon, in whoſe hands ſoever the ſame be found, within the ſaid

Juſtices may grant attachments, &c.

(c) See chap. 205. a. ſect. 11. paſſed Nov. 3, 1770, where it is provided that no goods or chattels ſhall be ſold by virtue of any execution for a debt under Forty Shillings in leſs than ſix days after ſervice of the ſame.

(d) See after in chap. 76. a. how priſoners for debt under Forty Shillings are to be relieved.

CHAP. LXXIII. 13 Geo. II.

county, to answer the said creditor, to the value of the debt and costs; and the person or persons, in whose hands any goods or other effects are attached, shall be obliged to appear before the said justice, and declare, upon oath or affirmation, what effects of the defendant he or they have in his or their hands, and pay the same to the use of the plaintiff, when so required by the said justice: And upon proof being made, to the satisfaction of the justice, of the truth of the debt or demand, the same justice shall award execution for the debt and costs, to be executed by the Constable, who shall have Two Shillings for serving the said Warrant of Attachment, and Three Shillings for serving the execution; which said goods or other effects, not being ready money, shall be brought to an appraisement, but not sold until the expiration of one month next after such attachment and appraisement, to the end that the debtor may have time to redeem them, if he or she shall see cause so to do; but in case such goods be living or perishable goods, the Constable or Constables so attaching, shall and may, by virtue of an order of the Justice or Justices granting such attachment, after appraisement, make lawful sale thereof, and deliver the money arising thereby into the hands of the same justice, who shall keep the same, and at the expiration of one month, as aforesaid, shall satisfy to the plaintiff his debt and costs, and the overplus, if any be, shall be returned to the defendant, or any other person lawfully representing him or her, any law, custom or usage to the contrary thereof in any wise notwithstanding.

and award execution for debt and costs, &c. Fees.

Lands and tenements not to be attached by virtue of this act; nor shall attachments ifsue for rent or damages, &c.

SECT. 4. *Provided always*, That no lands or tenements within this government, shall be subject to be attached or taken in execution, by virtue of this act; and that no Warrant of Attachment, or other warrant, shall be granted, or issue, for any sum or sums of money, due or to become due for the rent of any lands or tenements within this government, or for any trespass, or damage done to any person in the nature of a trespass.

CHAP.

CHAP. LXXIV. a

CHAP. LXXIV.

13 Geo. II.

An ACT *to prevent the unſeaſonable killing of deer within this government.*

SECTION 1. BE *it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if any freeman within this government, (Indians excepted) ſhall kill or deſtroy, by guns or otherwiſe, any deer or fawns, within any of the counties of this government, between the firſt day of January and the firſt day of Auguſt in every year, and be thereof duly convicted, by the teſtimony of one or more credible witneſſes, or otherwiſe, before any Juſtice of the Peace of the county where ſuch offence ſhall be committed, the offender, for every ſuch offence, ſhall forfeit and pay the ſum of Forty Shillings for every deer or fawn ſo killed or deſtroyed, contrary to the directions of this act, to be levied upon the offender's goods and chattels, by diſtreſs and ſale thereof, by warrant under the hand and ſeal of the Juſtice before whom the offender ſhall be convicted, and paid, the one moiety thereof to the uſe of the poor of the hundred where the conviction is, the other moiety to the informer.

Forty Shillings penalty on killing deer out of ſeaſon,

SECT. 2. *And* if no ſuch goods and chattels ſhall be found, then it ſhall and may be lawful to and for ſuch Juſtice, before whom the ſaid conviction is made, to judge ſuch offender to make ſatisfaction by ſervitude, for any time not exceeding ſix months.

or ſix months ſervitude.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That if any white ſervant, Mulatto or Negro ſlave, ſhall kill or deſtroy any deer or fawns within any of the counties aforeſaid, contrary to the intent and meaning of this act, ſuch ſervant, Mulatto or Negro ſo offending, being thereof duly convicted, ſhall, for every ſuch offence, be publicly whipt on his

Servants or ſlaves ſo offending to be whipt.

CHAP. LXXIV. Geo. II.

his or her bare back, with any number of ſtripes not exceeding twenty-one.

Freſh veniſon, &c. in poſſeſſion of any perſon, ſhall be good evidence.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That the finding of any veniſon or ſkins of deer or fawns newly killed, in the poſſeſſion of any perſon or perſons, ſhall be good evidence to convict ſuch perſon, in whoſe cuſtody the ſame ſhall be found, unleſs ſuch perſon or perſons ſhall bring good evidence to acquit him or themſelves of ſuch charge.

Any perſon purchaſing ſuch veniſon or ſkins, &c. of Indians, ſhall ſuffer, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons (Indians excepted) between the firſt day of January and the firſt day of Auguſt in every year, ſhall have in his or her houſe or cuſtody any veniſon, or deer or fawn ſkin or ſkins, by him or them purchaſed of or killed, within the ſaid term by any Indian or Indians within this government, the ſaid perſon or perſons, in whoſe poſſeſſion the ſame ſhall be found, being duly convicted thereof, ſhall be ſubject to the like pains and forfeitures, as if he or they had been convicted of killing or deſtroying the ſame.

CHAP. LXXV. a.

An ACT *for regulating inn-holders, tavern-keepers, and other public houſe-keepers within this government, and impowering the Juſtices to ſettle the rates of liquors.*

Preamble.

FOR regulating inn-holders, tavern-keepers, and other public houſe-keepers within this government.

SECTION 1. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That no perſon or perſons within this government ſhall preſume to keep any public

houſe

houſe of entertainment, tavern, inn, ale-houſe, ordinary, or victualling-houſe, without obtaining by petition, a recommendation from the Juſtices of the Court of Quarter Seſſions, to be held in Auguſt term, in each county within this government, to his honor the Governor for the time being, for a licence for keeping the ſame, ſetting forth that the perſon ſo petitioning is a fit perſon and well qualified for keeping a tavern or houſe of entertainment. *(a)*

No perſon may keep tavern, &c. until recommended and licenſed.

Sect. 2. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Governor for the time being, and his Secretary, to take and receive for all licences to be granted, the ſame fees and perquiſites as were uſually paid before the making of this act. *(b)*

Fees, &c. for granting licences.

Sect. 3. *And be it enacted by the authority aforeſaid*, That no perſon or perſons within this government, ſhall be recommended to the Governor by ſuch juſtices as aforeſaid, for a licence for keeping ſuch public houſe, tavern, inn, or ordinary, without making firſt appear, to the ſatisfaction of the ſaid juſtices, that ſuch petitioner is well qualified for keeping the ſame, and hath neceſſaries fit and ſuitable for the entertainment of travellers, and that the place or habitation of ſuch petitioner is ſituate in a proper and convenient place and ſtage for the entertainment of travellers as aforeſaid.

None but fit perſons may be recommended by the Juſtices.

Sect. 4. *And be it enacted by the authority aforeſaid*, That if any maſter or keeper of any ſuch houſe of entertainment, tavern, ale-houſe or victualling-houſe, ſhall ſuffer any perſon or perſons whatſoever to continue drinking and tippling in his or her houſe at any unſeaſonable hours of the night, or ſuffer drunkenneſs, corrupt or unlawful gaming with cards, dice, or at other games, within his or her houſe, out-houſe, office, or any other place thereto belonging, every ſuch maſter or owner of ſuch houſe, upon complaint, and

Penalty on tavern-keepers, &c. ſuffering gaming, drunkenneſs, &c. in their houſes.

(a) This power now veſted in the Judges of the Court of Common Pleas when ſitting as a Court of General Quarter Seſſions at all times, for this ſee chap. 20. c. paſſed June 14, 1793.

(b) Theſe fees now regulated in chap. 27. c. ſect. 1, 2. paſſed June 15, 1793. and to be for the uſe of the ſtate and ſpecially appropriated in chap. 28. c. ſect. 3, 5. but ſee chap. 105. c. a different appropriation.

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and due proof thereof made before any one Juſtice of the Peace of the county where the offence ſhall be committed, or by the view of the ſaid juſtice, ſhall, for the firſt offence, forfeit the ſum of Twenty Shillings, to be levied, together with coſts, on the offender's goods and chattels, by diſtreſs and ſale thereof, by warrant under the hand and ſeal of ſuch juſtice, to be paid the one moiety thereof to the uſe of the poor of the hundred where ſuch offence ſhall be committed, the other moiety to the informer; and for the ſecond offence, upon complaint and due proof thereof made before any two juſtices of the ſaid county, the offender ſhall forfeit any ſum not exceeding Five Pounds, nor leſs than Forty Shillings, to be recovered, as aforeſaid, by warrant under the hands and ſeals of the ſaid juſtices, and applied and paid in like manner as aforeſaid: And for the third offence, upon due proof thereof made before any two juſtices as aforeſaid, the offender ſhall have his or her houſe ſuppreſſed by order of the ſaid two juſtices, and be diſabled from keeping any ſuch public houſe as aforeſaid, for the ſpace of three years next after ſuch offence committed as aforeſaid. *(c)*

First offence.

Second offence.

Third offence.

SECT. 5. *And be it enacted by the authority aforeſaid*, That if any perſon or perſons within this government ſhall preſume, after the publication of this act, to keep any tippling-houſe, or ſell or retail any wine by any leſs meaſure than half a gallon; rum, brandy, or any ſpirituous liquors, by any meaſure leſs than a quart; beer, ale, metheglin, perry or cyder, by any meaſure leſs than one gallon; punch, or any other mixed liquor, by any meaſure whatſoever, without licence as aforeſaid; the perſon or perſons ſo offending ſhall, for every ſuch offence, forfeit and pay Five Pounds, to be recovered, together with coſts, by the order of any Court of Quarter Seſſions within this government where the offence is committed, upon conviction of the offender, by preſentment, bill,

Penalty on keeping public houſe without licence.

(c) See alſo "An act for the ſuppreſſion of idleneſs, vice, and immorality," chap. 140. b. paſſed June 24, 1786. for further reſtraint on ſuch public houſe-keepers.

bill, plaint, information, or confeſſion of the party offending, to be paid to the Governor for the time being, towards the ſupport of Government.

Public houſe-keepers giving credit to minors ſhall loſe the debt.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That if any maſter or keeper of any ſuch public-houſe or houſes, or tavern as aforeſaid, ſhall, after the publication of this act, preſume to truſt or give any credit to any minor or minors, every ſuch maſter or keeper of ſuch houſe or houſes ſhall loſe the whole ſum or ſums ſo truſted and credited, and is hereby precluded and debarred from ſuing for the ſame before any magiſtrate, or in any court within this government.

Penalty on continuing a public-houſe after ſuppreſſion.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons who ſhall have been maſters or keepers of any ſuch public houſe or houſes as aforeſaid, and ſhall have his, her, or their houſes ſuppreſſed for offending againſt this act in manner aforeſaid, and after ſuch ſuppreſſion ſhall preſume to retail any kind of ſtrong or mixed liquors contrary to the intent and meaning of this act, and ſhall be thereof convicted in manner of other convictions, by virtue of this act, the perſon or perſons ſo offending ſhall, for every ſuch offence, forfeit and pay the ſum of Five Pounds, to be recovered, together with coſts of proſecution, by preſentment, bill, plaint, information or confeſſion of the party offending, in any Court of Quarter Seſſions for any county of this government where the offence ſhall be committed, and paid to the Governor for the time being, for the ſupport of government.

Juſtices impowered to ſettle rates, prices, orders, &c. for public houſes;

SECT. 8. *And be it further enacted by the authority aforeſaid*, That the Juſtices of the Peace in the reſpective counties within this government, during the ſitting of the Quarter Seſſions in the month of November in each year, are hereby impowered and required to make and ſettle ſuch rates, prices and orders, on and for all ſorts of liquors retailed by all maſters and keepers of public houſes of entertainment, as aforeſaid, within the reſpective counties of this government, as to them ſhall appear to be juſt, meet and convenient; and that copies of all ſuch rates, prices and orders ſhall, by ſuch maſters and keepers

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13 Geo. II. which ſhall be ſet up in the moſt public room; on penalty of Twenty Shillings.

keepers of public houſes, be ſet up in the moſt public room or rooms of his, her or their houſes, within ten days next after the ſame ſhall be made and ſettled; and be truly complied with and conformed unto by all ſuch maſters or keepers of ſuch licenced public houſes, on the penalty of forfeiting the ſum of Twenty Shillings for every ſuch default made by ſuch maſter or keeper of ſuch licenced public houſes, upon complaint and proof made as in this act before is directed, to be applied and paid, the one moiety thereof to the Overſeers of the Poor of the town or hundred where the offender dwells, the other moiety to the informer

No Juſtice being an inn-holder, ſhall judge in any matter contained in this act.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That no Juſtice of the Peace, being himſelf an inn-holder, ſhall judge or determine concerning any matter or thing contained in this act, any thing herein contained to the contrary notwithſtanding.

Repeal of former acts.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That all other acts of General Aſſembly of this government, heretofore made, for regulating of public houſes, and for ſettling the rates and prices of liquors retailed therein, be and are hereby repealed, made null and void, any thing in the ſaid acts contained to the contrary in any wiſe notwithſtanding.

CHAP. LXXVI. a.

An ACT *for the relief of inſolvent debtors, within this government. (a)*

Preamble.

WHEREAS the act of Aſſembly of this government, entituled, *An act for the relief of inſolvent debtors*, made in the ſeventh year of his preſent Majeſty's reign, is found by experience not to anſwer the ends and purpoſes for which the ſame was intended:

(a) See a ſupplementary act hereto, chap. 118. a. paſſed 24 Geo. II. And an act for amending this original act, chap. 194. a. paſſed June 16, 1769.

intended: *And whereas* no perſon whatſoever can take any benefit by the ſaid act, who hath not reſided within this government two years next before his or her impriſonment, by means whereof many perſons cannot be relieved, who are equally entitled to compaſſion with ſuch as have reſided a longer time within the ſame: For remedy whereof,

SECTION 1. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if any perſon or perſons, having a charge of ſmall children, not of ſufficient age to be bound out as apprentices, or if any perſon or perſons above the age of forty years, ſhall be impriſoned within this government for any ſum or ſums of money or other debts above the value of Forty Shillings, and from and after the publication of this act, be willing to deliver up to his, her or their creditors, all his, her or their effects, towards ſatisfaction of the debts wherewith he, ſhe, or they ſtand charged, it ſhall and may be lawful for every ſuch priſoner to exhibit a petition to any of the courts of law within this government from whence the proceſs iſſued, upon which he or ſhe was taken or arreſted, certifying the cauſe or cauſes of his or her impriſonment, and an account of his or her whole real and perſonal eſtate, with the dates of the ſecurities wherein any part of it conſiſts, and the deeds or notes relating thereunto, and the names of the witneſſes to the ſame, as far as his or her knowledge extends thereunto. And upon ſuch petition the court may, and is hereby required, by order or rule of court, to cauſe the priſoner to be brought up, and the ſeveral creditors at whoſe ſuit he or ſhe ſtands charged as aforeſaid, and all his or her creditors that are or can be known to the court, to be ſummoned to appear perſonally, or by their Attorney, in court, at a day to be appointed for that purpoſe; and upon the day of ſuch appearance, if any of the creditors ſummoned

Priſoner to exhibit a petition, &c.

Creditors to be ſummoned to appear, &c.

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refuſe or neglect to appear, upon affidavit made of notice given to the creditor or creditors, or that the creditor or creditors are not to be found, the court ſhall in a ſummary way examine into the matter of ſuch petition, and hear what ſhall be alledged on either ſide for or againſt the diſcharge of ſuch priſoner; and if, upon examination, the court ſhall be of opinion that the priſoner ought to be diſcharged, the court may and are hereby required to adminiſter or tender to the priſoner an oath or affirmation to the effect following;

The Oath.

I A. B. *do ſolemnly ſwear, in the preſence of Almighty God*] [or, *ſincerely and truly declare and affirm*] *that the account by me delivered in to this honorable court, in my petition to this court, doth contain a full and true account of all my real and perſonal eſtate, debts, credits and effects whatſoever, which I, or any in truſt for me, have or at the time of my impriſonment had, or am, or was in any reſpect entitled to, in poſſeſſion, remainder, or reverſion; and that I have not at any time ſince my impriſonment, or before, directly or indirectly, ſold, leaſed, aſſigned or otherwiſe diſpoſed, or made over in truſt, for myſelf or otherwiſe, other than as mentioned in ſuch account, any part of my lands, eſtate, goods, ſtock, money, debts, or other real or perſonal eſtate, whereby to expect to have any benefit or profit to myſelf, or to defraud any of my creditors to whom I am indebted.*

SECT. 2. *And* in caſe the priſoner ſhall in open court take the ſaid oath or affirmation, and the creditor or creditors ſhall be ſatisfied with the truth thereof, the court may immediately order the lands, goods and effects contained in ſuch accompt (except the wearing apparel and bedding for ſuch debtor, and his or her family, and the tools or inſtruments of ſuch debtor's trade or calling, not exceeding Five Pounds in value for the whole, as the ſame ſhall be appraiſed by two credible perſons duly qualified for that purpoſe) or ſo much of them as may be ſufficient to ſatisfy the debt or debts wherewith he or ſhe is or ſhall be charged, together with coſts of ſuit, and the fees due to the keeper of the gaol or priſon from which the priſoner was brought, to be by a ſhort indorſement on the back of ſuch petition, ſigned by the

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13 Geo. II. Priſoner to aſſign his effects to the creditors, &c.

the priſoner, aſſigned to the ſaid creditors, or to one or more of them in truſt for themſelves and the reſt of them, or to ſome proper perſon or perſons to be by the ſaid court appointed in truſt for all the creditors: And by ſuch aſſignment the eſtate, intereſt and property of the lands, goods, debts and effects ſo aſſigned, ſhall be veſted in the perſon or perſons to whom ſuch aſſignment is or ſhall be made, who may take poſſeſſion of or ſue for the ſame, in his or their own name or names, in like manner as Aſſignees of Commiſſioners of Bankrupts, to which ſuit no releaſe of the priſoner, his or her executors or adminiſtrators, or any Truſtee for him or her, ſubſequent to ſuch aſſignment, ſhall be any bar. And immediately upon ſuch aſſignment executed, the ſaid priſoner ſhall be diſcharged out of cuſtody by order of court, and ſuch order ſhall be a ſufficient warrant to the Sheriff, Gaoler or keeper of ſuch gaol or priſon, to diſcharge the ſaid priſoner, if detained for the cauſes mentioned in ſuch petition, and no other, and he is hereby required to diſcharge and ſet him or her at liberty forthwith without fee, nor ſhall ſuch Sheriff or Gaoler be liable to any action of eſcape or other ſuit or information upon that account; and the perſon or perſons to whom the ſaid effects ſhall be aſſigned, paying the fees to the Gaoler or keeper of the priſon, in whoſe cuſtody the party diſcharged was, ſhall and is, and are hereby required to procure the ſaid effects ſo aſſigned to be appraiſed by men lawfully qualified, and after ſuch appraiſement to be divided among all the creditors and other perſons for whom he or they ſhall be intruſted, in proportion to their reſpective debts: But in caſe any of the creditors of the priſoner ſhall not be ſatisfied with the truth of ſuch oath or affirmation, but ſhall deſire further time to inform him or herſelf of the matters contained therein, the ſaid court may and ſhall remand the ſaid priſoner, and direct the ſaid priſoner, and the perſon or perſons diſſatisfied with ſuch oath or affirmation, to appear at another day to be appointed by the ſaid court, ſome time within the term next following the time of ſuch examination; and if at ſuch ſecond day ſo to be appointed, the creditor or creditors, diſſatisfied with

and upon ſuch aſſignment to be diſcharged.

Effects to be appraiſed and divided, &c.

In what caſes the priſoner may be remanded.

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with ſuch oath or affirmation, ſhall make default in appearing, or in caſe he or they ſhall appear, but ſhall not be able to diſcover any eſtate or effects of the priſoner omitted in ſuch his or her petition, or to ſhew any probability of his or her having been forſworn, or to have declared falſely in the ſaid oath or affirmation, then the ſaid court ſhall immediately cauſe the ſaid priſoner to be diſcharged, upon ſuch aſſignment of his or her effects in manner aforeſaid, unleſs ſuch creditor or creditors do inſiſt upon his or her being detained in priſon, and do immediately give ſufficient ſecurity within this government, to the Treaſurer of the county wherein the debtor is impriſoned for the time being, that the ſaid priſoner, or any of his or her ſmall children, ſhall not by ſickneſs or otherwiſe become a charge to the ſaid county, or any of the hundreds thereof, and to allow and pay unto ſuch perſon or perſons as the court ſhall appoint, ſuch ſum of money as the ſaid court ſhall judge reaſonable for the maintenance of the ſaid priſoner and his or her ſmall children, to be paid on the ſecond day of every week, ſo long as he or ſhe ſhall continue in priſon, at his, her, or their ſuits: But in caſe the ſaid priſoner ſhall refuſe to take the ſaid oath or affirmation, or, having taken the ſame, ſhall be detected of falſity therein, he or ſhe ſhall be preſently remanded.

Creditors inſiſting on the priſoners being remanded muſt maintain him, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That no perſon to be diſcharged by this act, ſhall at any time hereafter be impriſoned by reaſon of any judgment or decree obtained for payment of money only, or for any debt, damages, contempts, coſts, ſum or ſums of money, contracted, occurred, occaſioned, owing or growing due before the time of his or her diſcharge, but that upon every arreſt upon every ſuch judgment or decree, or for ſuch debts, damages or contempts, coſts, ſum and ſums of money, it ſhall and may be lawful for any Judge of the Court whence the proceſs iſſued, upon ſhewing the duplicate of ſuch priſoner's diſcharge, to releaſe and diſcharge out of cuſtody ſuch priſoner or priſoners as aforeſaid, and the Judge of the Court is hereby impowered ſo to do, ſo as every ſuch priſoner or priſoners, arreſted or detained as aforeſaid, do give a

No perſon diſcharged by this act, to be hereafter impriſoned, &c.

Warrant

Warrant of Attorney to appear to every ſuch action, and to plead thereunto.

Justices, Sheriffs, &c. may plead the general iſſue, &c.

Sect. 4. *And be it further enacted by the authority aforeſaid*, That if any action of eſcape, or any ſuit or action be brought againſt any Juſtice or Juſtices of the Peace, Sheriff, Gaoler or keeper of any priſon, for performing their office in purſuance of this act, they may plead the general iſſue, and give this act in evidence; and if the plaintiff be non-ſuited, or diſcontinue his action, or verdict paſs againſt him, or judgment upon demurrer, the defendant ſhall have treble coſts.

Sect. 5. *Provided*, That the diſcharge of any perſon by virtue of this act ſhall not acquit any other perſon from ſuch debt, ſum or ſums of money, for which ſuch other perſon became liable or anſwerable for the ſame, or any part thereof, but that all others ſhall be anſwerable in ſuch manner as if no ſuit had been brought againſt the ſaid perſon ſo diſcharged.

Sect. 6. *And provided*, That this act ſhall not extend to diſcharge any perſon out of priſon who ſhall ſtand chargeable at the ſuit of the crown only.

Judgment to ſtand good againſt what the priſoner may hereafter poſſeſs, &c.

Sect. 7. *Provided always, and be it further enacted by the authority aforeſaid*, That notwithſtanding the diſcharge of the perſon of the priſoner or priſoners as aforeſaid, all and every debt and debts, due or owing from the ſaid priſoner or priſoners, and all and every judgment or judgments had and taken, and decree obtained againſt him or her, ſhall ſtand and be good and effectual in law to all intents and purpoſes, againſt the lands, tenements, hereditaments, goods and chattels of the ſaid priſoner ſo diſcharged as aforeſaid, which he or ſhe, or any other perſon or perſons in truſt for him or her at the time of ſuch diſcharge, hath or have, or at any time hereafter ſhall or may be any ways ſeized or poſſeſſed of, intereſted in, or entitled to, either in law or equity, except his or her wearing apparel, bedding for his or her family, and working tools and implements neceſſary for his or her occupation, not exceeding the value of Five Pounds in the whole, as aforeſaid; and although ſuch priſoner were actually in execution at the time of his or her diſcharge, as aforeſaid, it ſhall and may be

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be lawful for the creditor or creditors of ſuch priſoners ſo diſcharged as aforeſaid, his, her, or their executors, or adminiſtrators, to take out a new execution againſt the lands, tenements, hereditaments, goods and chattels of ſuch priſoner (except as before excepted) for the ſatisfaction of his, her, or their debts, in ſuch manner and form, as he, ſhe, or they might have done, if the perſon of the priſoner ſo diſcharged as aforeſaid, had not been taken in execution; any act, ſtatute, law or cuſtom to the contrary in any wiſe notwithſtanding.

and the creditors may take out a new execution, &c.

SECT. 8. *Provided alſo, and be it further enacted by the authority aforeſaid*, That if the effects ſo aſſigned ſhall not extend to ſatisfy the whole debts due to the creditors of the perſon ſo diſcharged, and coſts of ſuit or ſuits, then there ſhall be an abatement in proportion, and all the officers concerned in the proſecution of the ſuit or ſuits againſt ſuch priſoner, ſhall come in as creditors for what ſhall be due to them for their fees, in proportion with the other creditors.

The debtor's effects not being ſufficient, are to be divided in proportion, &c.

SECT. 9. *Provided*, That where any rent ſhall be due from any priſoner at the time of his or her diſcharge, no goods or chattels then lying, or being in or upon the tenement or lands in leaſe, or liable to be diſtrained, ſhall be removed or diſpoſed of without the conſent of the landlord or perſon to whom the rent is due, until the ſame, not exceeding one year's rent, be paid or ſatisfied; and that the landlord may uſe all lawful ways for the having and recovering his rent, ſo as the ſame exceed not one year's rent, by diſtreſs or otherwiſe, as he might have, had, or could have done before the making of this act; any thing herein contained to the contrary in any wiſe notwithſtanding.

Landlords may recover one year's rent as before this act.

SECT. 10. *And provided alſo*, That this act ſhall not bar any abſent or diſtant creditor, who had not notice of the priſoner's application to the court as aforeſaid.

No abſent creditor barred by this act.

SECT. 11. *And be it further enacted by the authority aforeſaid*, That where any perſon whatſoever, ſhall be arreſted or taken by warrant from any Juſtice of the Peace

How priſoners for debt under 40s. are to be relieved.

Peace for a debt under Forty Shillings, (c) if the plaintiff cannot make appear that the defendant hath goods, chattels, or other effects wherewith to ſatisfy the ſaid debt and coſts, and the defendant offering to make oath or affirmation, that he or ſhe hath not any goods, chattels, or effects, wherewith to make ſatisfaction for the ſame (except his or her wearing apparel, bedding for his or her family, and the working tools or inſtruments neceſſary for his or her trade or calling, not exceeding the value of Five Pounds in the whole, as aforeſaid) and withal ſignifying his or her willingneſs to ſatisfy the plaintiff by ſervitude, it ſhall and may be lawful to and for the ſaid juſtice, and he is hereby required to adminiſter to the defendant ſuch oath or affirmation, and thereupon to order ſatisfaction to be made to the plaintiff for his debt and coſts, by adjudging the defendant to ſerve the plaintiff, or his or her aſſigns, ſo long as the ſaid juſtice ſhall judge reaſonable for the ſatisfying the ſaid debt and coſts, ſo as the time of ſuch ſervice do not exceed the term of ſix months: And if the plaintiff refuſe to accept of ſuch ſervice, it ſhall and may be lawful for ſuch juſtice before whom the action is brought, and he is hereby required to diſcharge ſuch defendant, and to oblige the plaintiff to pay all the coſts of the ſaid action.

Prisoner convicted of perjury, ſhall ſuffer &c.

SECT. 12. *Provided always, and be it further enacted by the authority aforeſaid*, That if any perſon who ſhall take any oath or affirmation, as by this act before is directed, ſhall upon any indictment for perjury or falſe affirming in any matter or particular contained in the ſaid oath or affirmation, be convicted by his or her own confeſſion, or by verdict of twelve men; the perſon ſo convicted ſhall ſuffer all the pains and forfeitures which may by law be inflicted on any perſon convicted of wilful perjury, and ſhall likewiſe be liable to be taken on any proceſs *de novo*, and charged in execution for debt, in the ſame manner as if he or ſhe had never been taken in execution before or diſcharged,

(c) See before in chap. 73. a.

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charged, and ſhall never after have the benefit of this act.

Priſoners not to be carried to taverns, &c. without their conſent, &c.

SECT. 13. *And whereas* many perſons may ſuffer by the oppreſſion and exaction of Gaolers, and other inferior officers, in the execution of proceſs for debt: For prevention whereof, *Be it further enacted by the authority aforeſaid*, That no Sheriff, Under-Sheriff, Bailiff, or other officer or miniſter whatſoever, ſhall at any time or times hereafter convey or carry, or cauſe to be conveyed or carried, any perſon or perſons by him or them arreſted, or being in his or their cuſtody, by virtue or colour of any writ, proceſs, or warrant, to any tavern, ale-houſe, or other public victualling or drinking-houſe, or to the private houſe of any ſuch officer, without the voluntary conſent of the perſon ſo taken or arreſted; or charge, demand, take or receive, or cauſe to be demanded, taken or received, directly or indirectly, any other or greater ſum or ſums of money than is or ſhall by law be allowed to be taken or demanded for ſuch arreſt, taking, detaining or waiting till the perſon or perſons ſo arreſted or in cuſtody ſhall have given in an appearance or bail, as the caſe ſhall require, or agree with the perſon or perſons at whoſe ſuit or proſecution he, ſhe, or they ſhall be taken or arreſted, or until he, ſhe, or they ſhall be ſent to the proper gaol belonging to the county, town or place where ſuch arreſt or taking ſhall be; nor ſhall keep the perſon or perſons ſo taken or arreſted, in any tavern, ale-houſe, or other public victualling-houſe, or private houſe of any officer, with or without the conſent of the perſon or perſons ſo arreſted, above the ſpace of twenty days, nor ſhall exact or take any reward, gratuity or money, for keeping the perſon or perſons ſo arreſted or in cuſtody out of gaol or priſon; nor ſhall take or receive any other or greater ſum or ſums of money for one or more night's lodging, or for a day's diet, or other expences, than what ſhall be allowed as reaſonable in ſuch caſes, by ſome order or orders, to be made by the Juſtices of the reſpective Courts of Common Pleas within this government, at ſome court to be held for ſuch county, town, or place where ſuch arreſt or taking ſhall be, who are hereby authoriſed and required

Extravagant fees, &c. not to be demanded.

Juſtices to make orders for regulating expences of priſoners, &c.

required, with all convenient expedition, to make ſome ſtanding order or orders for aſcertaining ſuch expences within their reſpective counties.

SECT. 14. *And be it further enacted by the authority aforeſaid*, That every Sheriff, Under-Sheriff, Gaoler, keeper of any priſon or gaol, or other perſon or perſons whatſoever, to whole cuſtody or keeping any one ſo arreſted or taken ſhall be committed on any pretence, ſhall permit or ſuffer him or her ſo arreſted or taken, at his or her will and pleaſure, to ſend for and have any beer, ale, victuals, or other neceſſary food from what place he or ſhe doth pleaſe; and alſo to have and uſe ſuch bedding, linen, and other things, *(d)* as he or ſhe ſhall think fit, without purloining or detaining the ſame, or any part thereof, or enforcing or requiring him or her to pay for the having or uſing thereof, or putting any manner of reſtraint or difficulty upon him or her in the uſing thereof, or relating thereto.

Officers ſhall permit priſoners to ſend for neceſſaries to where they pleaſe.

SECT. 15. *And be it further enacted by the authority aforeſaid*, That no fees ſhall be taken by any Gaoler, or keeper of any gaol or priſon within this government, for any priſoner or priſoners commitment or coming into gaol, or chamber-rent there, or diſcharge from thence, or other expences, than what ſhall be allowed by law, until ſuch fees ſhall be ſettled and eſtabliſhed by the Juſtices or Judges of the reſpective County Courts, and other Courts of Record within this government, for and in reſpect of the counties and courts to which they belong, who are hereby directed, impowered and required to ſettle and eſtabliſh the ſame as ſoon as conveniently may be; and tables ſhall be made of the reſpective orders, rules and fees ſo ſettled and eſtabliſhed, and ſigned by the Juſtices or Judges of the reſpective County Courts, Courts of General Quarter Seſſions of the Peace, and other Courts of Record, for their reſpective gaols within their reſpective juriſdictions; which rules, orders and fees, may from time to time be enlarged, reformed, altered and amended, as occaſion ſhall require, by

Judges ſhall ſettle tables of fees, &c.

(d) See before chap. 58. a.

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the Judges of the Supreme Court, by rules and orders of the ſaid court, to be ſigned by the judges of the ſame, and duplicates ſhall be tranſmitted to the reſpective County Courts, and other Courts of Record, for which they are made, to be entered of record, and enrolled, without any fee to be taken for the enrollment thereof.

Courts ſhall enquire concerning the tables of fees, &c.

SECT. 16. *And be it further enacted by the authority aforeſaid*, That the ſeveral Courts of Common Pleas, and other Courts of Record within the ſeveral counties of this government, ſhall at every time of the ſitting of ſuch court or courts enquire whether ſuch tables of fees, and ſuch rules as aforeſaid, be hung up and remain public, and eaſy to be reſorted to in the ſeveral priſons to the courts reſpectively belonging, and whether the ſame be duly complied with and obſerved, and cauſe eight days notice to be given to the priſoners in the ſaid priſon of the time appointed for ſuch enquiry, and ſhall inform themſelves touching the ſame in the beſt manner they can, and ſupply and redreſs whatever they find neglected or tranſgreſſed: And that the Judges of the Court of Oyer and Terminer, and General Gaol Delivery, ſhall likewiſe make enquiry of the matters aforeſaid, at ſuch Courts and Seſſions of Gaol Delivery within this government, for and in reſpect of the gaols and priſons within their reſpective juriſdictions, and ſhall expreſſly give it in charge to the Grand Jury to enquire concerning the ſame.

How Gaolers, &c. guilty of extortion, ſhall be puniſhed.

SECT. 17. *And* for the more ſpeedy puniſhing Gaolers, Bailiffs and others employed in the execution of proceſs, for extortions, or other abuſes in their reſpective offices and places; *Be it further enacted by the authority aforeſaid*, That upon petition of any priſoner or perſon being or having been under arreſt or in cuſtody, complaining of any exaction or extortion by any Gaoler, Bailiff, or other officer or perſon employed in the keeping or taking care of any gaol or priſon, or the arreſting or apprehending of any perſon or perſons by virtue of any proceſs or warrant, or any other abuſe whatſoever, committed or done in their reſpective offices or places, unto any of his Majeſty's Courts of Record within this government, from whence

whence ſuch proceſs iſſued, or under whoſe power ſuch gaol or priſon is, or to any two juſtices of ſuch court in the time of the vacation, or to the judges of the Supreme Court, or any of them in their reſpective Seſſions of Oyer and Terminer, or General Gaol-Delivery, it ſhall and may be lawful for the ſame court, juſtices or judges, to hear and determine the ſame in a ſummary way, and to make ſuch order thereupon for redreſſing ſuch abuſe, and puniſhing ſuch officer or perſon complained of, and making reparation to the party or parties injured as they ſhall think juſt, together with the full coſts of ſuch complaint: And all orders and determinations which ſhall be made by the ſaid courts, or of the ſaid juſtices or judges reſpectively, in ſuch ſummary way as herein preſcribed, ſhall have the ſame effect, force and virtue, to all intents and purpoſes, as any other orders of the ſaid reſpective courts, and obedience thereto may be enforced either by attachments ordered by the ſaid reſpective courts, or by attachments to be iſſued under the ſeal of the ſaid courts, by direction of the juſtices or judges making ſuch order.

No Sheriff, &c. to keep any tavern, &c.

SECT. 18. *And* for the preventing priſoners being impoſed upon by being under a neceſſity of ſpending their money in priſons where ſtrong liquors are ſold, *Be it enacted by the authority aforeſaid*, That no Gaoler or keeper of any gaol, or any Sheriff, or Under-Sheriff, having the care or keeping of any gaol or priſon within this government, ſhall keep or ſuffer to be kept any tavern, public houſe or ale-houſe, or ſhall utter or ſell to any perſon or perſons under arreſt or in priſon any wine, rum, beer, ale, cyder, punch, or any other ſtrong liquors, other than what ſhall be allowed by the juſtices as aforeſaid for a day's diet or expences by ſuch order to be made as aforeſaid, on pain of being removed from his or their office or offices of Sheriff, Under-Sheriff, or Gaoler, upon complaint made, to be heard and determined upon petition in a ſummary way as aforeſaid, before the Juſtices in their reſpective Courts of Common-Pleas for the county to which ſuch Gaoler, Sheriff or Under-Sheriff, having the keeping of any gaol, does belong.

SECT.

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Persons under forty years of age, having no charge of children, and whose debts exceed 40s. may be adjudged (if willing) to serve their creditors.

Sect. 19. *And be it further enacted by the authority aforesaid*, That any person or persons being imprisoned within any of the counties of this government for any debt, sum or sums of money above Forty Shillings, and not being above the age of forty years, or not having a charge of such small children as aforesaid, may at any succeeding court, to be held for the county where he or she is imprisoned, next after his or her imprisonment, exhibit to the justices of the said court, upon oath or affirmation, an account of all their effects (if any they have) and to which they have any right in law or equity, *(e)* and the names of their creditors, at whose suit such person or persons are imprisoned, and the sums of money which they owe, and when the same became due, as far as their knowledge does extend, and shall by petition shew to the court their inability to pay the debts for which such person or persons are imprisoned, and shall make an assignment of their effects (if any they have) to any person or persons that shall be appointed by the court in trust for all his or her creditors, or for such of them as the said court shall direct, and shall signify his or her willingness make satisfaction by servitude for the debt or residue of his or her debts according to the judgment of the court where such cause is depending, or judgment given, in order as the judgments shall be entered against him or her, and dignity of the debts, if the plaintiff or plaintiffs will accept of the same; and the said court may and is hereby impowered and required to adjudge the said debtor to serve his or her creditors, their executors, administrators and assigns accordingly.

The time not to exceed seven years.

Sect. 20. *Provided always*, That the time the defendant shall be adjudged to serve all his or her creditors shall not exceed seven years in the whole.

Creditors not accepting such satisfaction, his debt is discharged.

Sect. 21. *But* if any of the plaintiffs or creditors will not accept of such manner of satisfaction, as aforesaid, then and in such case the defendant shall be discharged from the judgment, suit, debt, or demand of every such plaintiff or creditor so refusing.

Sect. 22. *And whereas* it often happens that many poor

(e) See before in sect. 1. and after in chap. 118. a, 24 Geo. II.

poor perſons are arreſted and impriſoned within the counties of this government, and are ſo poor that they immediately become a charge to the county where they are impriſoned: For remedy whereof, *Be it enacted by the authority aforeſaid*, That every perſon and perſons who ſhall make application by him or themſelves, or any other perſon, for any writ or warrant for the taking or arreſting any ſuch poor perſon within this government, for any debt or demand whatſoever, ſhall before the granting of any ſuch writ or warrant be required by the officer or juſtice who grants the ſame, to give ſufficient ſecurity within the ſame county, to be taken in the name of the Treaſurer of the ſaid county, or of the Overſeers of the Poor of the town or hundred where the party ſhall be likely to be impriſoned for the time being, and his and their ſucceſſors, to indemnify the ſaid county, town or hundred from all charges that may ariſe either by the maintenance or ſickneſs of the perſon ſo to be impriſoned; and that until ſuch ſecurity be given as aforeſaid, the officer or juſtice, to whom ſuch application ſhall be made, ſhall not grant any ſuch writ or warrant, on penalty of being anſwerable for all ſuch charges as may ariſe by means of ſuch impriſoning the party by virtue of ſuch writ or warrant as aforeſaid. *(f)*

Thoſe who take writs, &c. againſt poor perſons, ſhall give ſecurity that they do not become chargeable.

They who grant ſuch writs, &c. without taking ſuch ſecurity, ſhall be anſwerable themſelves.

SECT. 23. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons who have not reſided within this government for the ſpace of one year, next before his, her, or their arreſt or impriſonment, ſhall have any benefit of this act, ſaving that perſons arreſted for any debt or demand under Forty Shillings, and having no effects wherewith to make ſatisfaction for the debt and coſts, ſhall be liable to make ſatisfaction to the plaintiff or plaintiffs by ſervitude as aforeſaid.

No perſon to have the benefit of this act, that has not reſided one year in the government, except, &c.

SECT. 24. *And be it further enacted by the authority aforeſaid*, That one act of General Aſſembly of this government, made in the ſeventh year of his Majeſty's reign, entituled, *An act for the relief of inſolvent debtors*, is hereby repealed and made void.

Repeal of a former act.

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(f) This ſection repealed and ſupplied in chap. 194. a. paſſed June 16, 1769.

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CHAP. LXXVII. a.

An ACT *for the better regulation of ſervants and ſlaves within this government. (a)*

Preamble.

FOR the due encouragement of ſervants in the diſcharge of their duty, and preventing of their deſertion from their maſters or owners ſervice; and for the diſcouraging of ſuch who corrupt, entertain, traffick or deal with any ſervant or ſlave:

No ſervant to be ſold into another Government, without the approbation of at leaſt one juſtice, &c.

SECTION 1. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That no indentured ſervant, or perſon bound to ſerve his or her time in this government, ſhall have the term of his or her ſervitude, or any part thereof, aſſigned, tranſferred or ſold to any perſon reſiding in any other province or government, without the conſent of ſuch ſervant, and the approbation of at leaſt one Juſtice of the Peace of the county, *(b)* whereof the maſter or owner of ſuch ſervant is a reſidenter, under penalty of Ten Pounds, and the ſaid aſſignment and ſale ſhall be void.

Nor aſſigned over, but in the preſence of one juſtice.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That no indentured ſervant within this government, ſhall have the time of his or her ſervitude, or any part thereof, aſſigned, transferred, or ſold to any other perſon within this government, but in the preſence and with the approbation of one Juſtice of the

(a) See a ſupplementary act hereto, chap. 129. a. 25 Geo. II. A further ſupplement, chap. 170. a. paſſed October 1760. Another ſupplement, chap. 188. a. paſſed October 31, 1767.

(b) In chap. 206, a. ſect. 31. paſſed June 13, 1772, Burgeſſes of Wilmington within that borough are veſted with the powers of a Juſtice of the Peace of the county.

the Peace of the county *(b)* whereof the maſter or owner of ſuch ſervant is a reſidenter, under the penalty of Five Pounds, and the aſſignment and ſale ſhall be void.

nor indentures taken, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons whatſoever, ſhall, upon any pretence or conſideration whatſoever, take or receive any indenture of ſervitude or apprenticeſhip from any perſon or perſons whatſoever within this government, but in the preſence and with the approbation of one Juſtice of the Peace of the county *(b)* where the party taking ſuch indenture dwells, under the penalty of Five Pounds, together with coſts of proſecution, to be paid by the ſaid party, and every ſuch indenture ſhall be void. *(c)*

The allowance to ſervants, at the expiration of their ſervitude.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That ſuch ſervants as ſhall be imported into this government, and truly ſerve his or her time mentioned in his or her indenture, ſhall, at the expiration of the term of his or her ſervitude, have a diſcharge from his or her maſter or miſtreſs, and by them be cloathed with two ſuits of apparel, whereof one ſhall be new, to be approved by at leaſt one Juſtice of the Peace upon complaint to him by ſuch ſervant becoming free.

Servants abſenting themſelves, ſhall make ſatisfaction, &c.

SECT. 5. *And* for the prevention of ſervants abſenting themſelves from their maſter's or miſtreſs's ſervice, *Be it enacted by the authority aforeſaid*, That from ſuch time as any ſervant ſhall abſent him or herſelf from his or her maſter or miſtreſs's ſervice, without leave firſt obtained for the ſame, every ſuch ſervant, for ſuch abſence, and expences of taking up, ſecuring and other neceſſary charges, ſhall, at the expiration of the time of his or her ſervitude, make ſatisfaction by ſervitude, according to the judgment of any Court of Quarter Seſſions within this government, before which the ſaid ſervant ſhall be brought for that purpoſe.

SECT. 6. *And be it further enacted by the authority aforeſaid*,

(c) See before in chap. 30. a. ſect. 6. for the powers of Orphan's Courts as to binding out of minors as apprentices.

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aforeſaid, That if any perſon ſhall apprehend or take up any run-away ſervant, and carry him or her before the next Juſtice of the Peace of the county where ſuch ſervant ſhall be ſo taken up, in order to be ſent to and ſecured in the gaol of the ſaid county, for his or her maſter or miſtreſs's ſervice (whom the Sheriff of the ſaid county, or the Gaoler, is hereby commanded to receive, and immediately to ſend notice thereof to the ſaid ſervant's maſter or miſtreſs, if the ſame can be known, and if not known, the ſaid ſervant to be advertiſed in ſome public news-paper of the city of Philadelphia, for the ſpace of one month next after ſuch ſervant's commitment). At the diſcharge of ſuch ſervant, the ſaid Sheriff or Gaoler ſhall pay to the taker-up of ſuch ſervant, or his order, as follows, *That is to ſay*, If the place of the taking-up the ſaid ſervant be ten miles diſtant from the place of the ſaid ſervant's laſt abode, or under, the ſum of Ten Shillings, and if upwards of ten miles, the ſum of Twenty Shillings, and to all others concerned in the carrying to priſon or ſecuring the ſaid ſervant, ſuch ſum or ſums of money as by the ſaid juſtice, or any other juſtice, ſhall be allowed reaſonable. *And* the ſaid Sheriff or Gaoler ſhall detain the ſaid ſervant in priſon until the maſter or miſtreſs of ſuch ſervant ſhall pay unto him for the taking-up, together with the charges of committing, ſecuring, maintaining, and all other neceſſary expences ariſing upon ſuch ſervant. *And* if the maſter or owner of ſuch ſervant ſo impriſoned as aforeſaid, ſhall, for the ſpace of ſix weeks next after notice had of his or her ſervant's impriſonment, neglect or refuſe to releaſe ſuch ſervant, it ſhall and may be lawful for the ſaid Sheriff, and he is hereby required and commanded, upon affidavit made of the due ſervice of ſuch notice, to expoſe every ſuch ſervant to ſale at public vendue, and him or her to ſell to the higheſt bidder, for ſuch term and ſum as ſhall be ſufficient for the defraying the coſts and charges ariſing upon the apprehending and impriſoning the ſaid ſervant.

Notice to be given of the taking up of runaway ſervants, &c.

Reward for taking up runaway ſervants, &c.

when they may be ſold by Sheriff.

Suſpicious perſons travelling without a paſs ſhall be deemed runaway ſervants.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That if any ſuſpicious perſon ſhall be taken up, travelling in or through this government, without

out having a ſufficient paſs, ſigned by ſome juſtice or proper officer of the place from whence he or ſhe came, approved and renewed by ſome Juſtices of the Peace in the parts through which ſuch perſon hath travelled, or ſhall not otherwiſe be able to give a good and ſatisfactory account of him or herſelf to the juſtice before whom he or ſhe ſhall be brought, ſuch perſon ſhall, by the ſaid juſtice, be committed to the gaol of the county where he or ſhe ſhall be taken up, and be deemed to be, and dealt withal, as a run-away ſervant.

Allowance to the Gaoler for the maintenance of ſervants, &c.

SECT. 8. *And* that no Sheriff or Gaoler within this government, ſhall allow or receive, for the maintenance or victualling of any ſervant, ſlave, or other perſon committed to gaol as a ſervant, any more than at the rate of Two-pence per day for ſuch maintenance.

Penalty on perſons dealing with ſervants or ſlaves.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons, from and after the publication of this act, ſhall preſume to deal, trade or barter with any indentured ſervant, or Negro or Mulatto ſlave, belonging to any perſon within this government, without the conſent, approbation, or allowance of the maſter or owner of ſuch ſervant or ſlave, from time to time, firſt had and obtained, ſpecifying and limiting the particular ſum for which ſuch ſervant or ſlave, at every ſuch time, are permitted or allowed to deal, trade or barter for, as aforeſaid, and be thereof duly convicted, by the teſtimony of one or more credible witneſſes, or otherwiſe, before any three juſtices of the county where any ſuch offence ſhall be committed, to be heard in any time of the vacation, the offender, for ſuch his or her firſt offence, ſhall be fined, in any ſum not exceeding Five Pounds, and for the ſecond, in any ſum not exceeding the ſum of Ten Pounds, together with coſts, and be obliged to enter into a recognizance with ſufficient ſureties for his or her good behaviour. *And* in caſe any maſter or miſtreſs ſhall complain to any two Juſtices of the Peace of any county within this government, againſt any perſon inhabiting the ſame, that he or ſhe hath juſt reaſon to ſuſpect and believe, that the ſaid perſon doth deal, trade or barter with

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his or her ſervant or ſlave, contrary to the intent and meaning of this act, and the ſaid juſtices ſhall judge ſuch ſuſpicion juſt and reaſonable; then the ſaid juſtices are hereby impowered and required, to oblige every ſuch perſon ſo complained of as aforeſaid, to enter into ſuch recognizance as aforeſaid.

Whoever manumits a ſlave, &c. ſhall give ſecurity to indemnify the county.

SECT. 10. *And whereas* it is found by experience, that free Negroes and Mulattoes are idle and ſlothful, and often prove burthenſome to the neighbourhood wherein they live, and are of evil example to ſlaves; *Therefore be it enacted by the authority aforeſaid*, That if any maſter or miſtreſs, ſhall, by will or otherwiſe, diſcharge or ſet free any Mulatto or Negro ſlave or ſlaves, above the age of thirty-five years, or decrepid or infirm, he or ſhe, or his or her executors or adminiſtrators, at the next reſpective County Court of Quarter Seſſions, ſhall enter into a recognizance with ſufficient ſureties, to be taken in the name of the Treaſurer of the ſaid county for the time being, in the ſum of Thirty Pounds, for each ſlave ſo ſet free, to indemnify the county from any charge they or any of them may be unto the ſame, in caſe of ſuch Negro or Mulatto's being ſick, or otherwiſe being rendered uncapable to ſupport him or herſelf; and that until ſuch recognizance be given, no ſuch Mulatto or Negro ſhall be deemed free. *(d)*

The children of free Negroes to be bound out to ſervice.

SECT. 11. *And* if any free Negro or Negroes having children, are not able to maintain or ſupport them, it ſhall and may be lawful to and for the two next Juſtices of the Peace, and they are hereby required, together with the Overſeers of the Poor of the hundred where the ſaid Negro or Negroes ſhall dwell, to bind out to ſervice ſuch Negro children, the males until they ſhall come to the age of twenty-one years, the females until they ſhall come to the age of eighteen years. *(e)*

SECT.

(d) This ſection was repealed and ſupplied in chap. 188. a. ſects. 2, 4, paſſed October, 31, 1767, but after altered and further provided for in chap. 145. b. paſſed Feb. 3, 1787.

(e) That by a ſupplement to the act for the relief of the poor, chap. 190. a. of October 1767, all ſuch children, females as well as males, were to be bound until they ſhould arrive to the age of 21 years, and this clauſe then repealed.

Alſo, that in the "Act for the relief of the poor," chap. 225. a. ſect. 31. paſſed

SECT. 12. *And be it further enacted by the authority aforeſaid*, That if any free Negro or Mulatto ſhall harbour or entertain any ſervant or ſlave in his or her houſe or habitation, without the leave and conſent of ſuch ſervant or ſlave's maſter or miſtreſs, ſuch free Negro or Mulatto ſhall forfeit and pay the ſum of Five Shillings for the firſt hour, and Two Shillings for every hour afterwards, during the whole time that ſuch ſervant or ſlave ſhall be ſo harboured or entertained; and if any free Negro or Mulatto ſhall barter, trade or deal with any ſervant, or Negro, or Mulatto ſlave, without licence had as aforeſaid, he or ſhe ſhall make reſtitution to the maſter or owner of ſuch ſervant or ſlave, and alſo be publicly whipt with any number of laſhes not exceeding twenty-one.

Penalty on free Negroes entertaining ſervants or ſlaves.

Free Negroes, &c. dealing with ſlaves ſhall make reſtitution, and be whipt.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That if any free Negro or Mulatto ſhall refuſe, or be unable to pay his or her fine or forfeiture, or to make reſtitution as aforeſaid, it ſhall and may be lawful to and for the juſtice before whom ſuch matter ſhall be tried, to order the ſaid free Negro or Mulatto offending, to make ſatisfaction to the party injured, by ſervitude.

Or being unable to pay, &c. ſhall make ſatisfaction by ſervitude.

SECT. 14. *And be it further enacted by the authority aforeſaid*, That whoſoever ſhall take up any Negro or Mulatto ſlave, at above ten miles diſtance from his or her maſter or miſtreſs's habitation, and not having leave, in writing, from his or her maſter or miſtreſs, or not being known by the taker-up to be about his or her maſter or miſtreſs's buſineſs or ſervice, and ſhall convey him or her to the habitation of his or her ſaid maſter or miſtreſs, if known, ſuch taker-up ſhall receive, of the ſaid maſter or miſtreſs, for his reward, the ſum of Five Shillings, with reaſonable charges.

Reward for taking up ſlaves, above ten miles from home.

SECT. 15. *And be it further enacted by the authority aforeſaid*,

March 29, 1775. All former acts for the relief of the poor were repealed, and proviſion made in ſect. 8. for binding out all children likely to become chargeable to the hundred, which is further extended in ſect. 18. of chap. 218. b. being "An act for the better relief of the poor," paſſed Jan. 29, 1791; both which laſt acts fix the reſpective ages to which males and females are to be bound unto, as in the foregoing ſect. 11.

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aforeſaid, That no perſon ſhall employ or knowingly harbour, conceal or entertain another's ſervant or ſlave at his or her houſe or plantation without the maſter or owner's leave and conſent, except in diſtreſs of weather, or other extraordinary occaſion or accident, under the penalty of Forty Shillings for every twenty-four hours he or ſhe ſhall entertain any ſuch ſervant or ſlave, as aforeſaid, and ſo in proportion for any leſſer time.

Penalty on harbouring or concealing ſervants or ſlaves.

How the fines, &c. are to be recovered and diſpoſed of.

SECT. 16. *And be it further enacted by the authority aforeſaid*, That all the fines and forfeitures ariſing by this act, together with the reſpective coſts, ſhall be recovered by diſtreſs and ſale of the offender's goods reſpectively, by warrant under the hands and ſeals of the juſtice or juſtices before whom the offender or offenders ſhall be convicted, and ſhall be paid, the one moiety to the Overſeers of the Poor, for the uſe of the poor of the town or hundred where the offence or offences ſhall be committed, the other moiety thereof to the party or parties aggrieved.

CHAP. LXXVIII. a.

13 Geo. II. *An* ACT *for the ſtriking and making current Six Thouſand Pounds in new bills of credit, to exchange ſuch of the bills of credit of this government, emitted Anno Domini One Thouſand Seven Hundred and Thirty-four, as are worn and defaced.*

CHAP. LXXIX. a.

13 Geo. II. *An* ACT *to prevent the breach of the Lord's Day, commonly called Sunday.* Repealed and ſupplied by an act paſſed Feb. 6, 1795. chap. 78. c.

CHAP.

CHAP. LXXX. a.

CHAP. LXXX.

13 Geo. II.

An ACT *againſt unſeaſonable firing the woodlands and marſhes within this government. (a)*

FOR prevention of damages and dangers that may enſue upon firing the woodlands or marſhes within this government, at unſeaſonable times of the year,

SECTION 1. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That whoſoever ſhall preſume to ſet or cauſe to be ſet on fire any woodlands or marſhes, within this government, before the tenth day of March, or after the firſt day of May yearly, and be duly convicted thereof, by the teſtimony of one or more credible witneſſes, before any two Juſtices of the Peace of the county where ſuch offence is committed, ſhall, for every ſuch offence, forfeit any ſum not exceeding Five Pounds, to be levied, together with coſts, by warrant under the hands and ſeals of the juſtices before whom the conviction is had, on the offender's goods and chattels; and paid, the one moiety thereof to the Overſeers of the Poor of the hundred for the uſe of the poor where the offence is committed, the other moiety to the uſe of the informer; and for want of goods and chattels, the offender ſhall be adjudged, by the ſaid juſtices, to make ſatisfaction by ſervitude; and ſhall alſo make good all damages that ſhall thereby happen to any of the inhabitants of this government, to be recovered by bill, plaint or information, in any of his Majeſty's Courts of Record within this government. And if any Negro or Mulatto ſlave or ſlaves ſhall be duly convicted of ſuch offence as aforeſaid,

Woodlands or marſhes to be fired only between the tenth of March and the firſt of May, on penalty of Five Pounds.

Offender to make good all damages.

Slaves ſo offending to be whipt.

(a) See chap. 87. a. 15 Geo. II. ſetting forth limits in the two counties of New-Caſtle and Suſſex, in which woodlands ſhall not be ſet on fire at any time.

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ſaid, the ſaid juſtices ſhall order him, her, or them, to be publicly whipt with any number of laſhes not exceeding thirty-one.

CHAP. LXXXI. a.

14 Geo. II. *A Supplementary* ACT *to the act, entituled, "An act for the ſtriking and making current Six Thouſand Pounds in new bills of credit, to exchange ſuch of the bills of credit of this government, emitted Anno Domini One Thouſand Seven Hundred and Thirty-four as are worn and defaced."*

CHAP. LXXXII. a.

14 Geo. II. *An* ACT *to prevent frauds by clandeſtine bills of ſale.(a)*

WHEREAS many frauds have been and daily are committed, by making clandeſtine bills of ſale for goods and chattles within this government, to the prejudice of creditors, who by that means are defrauded of their juſt debts; For prevention whereof,

SECTION 2. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That no ſale, or bill or bills of ſale, which ſhall hereafter be made of any goods or chattels within any of the counties of this government, ſhall be good or available in law, or ſhall change or alter the property of ſuch goods or chattels, unleſs a valuable conſideration ſhall be paid, or really and *bona fide* ſecured to be paid for ſuch ſale or bill or bills

Bills of ſale not good without valuable conſideration, &c.

(a) See before in chap. 72. a. 13 Geo. II. ſect. 3.

bills of ſale, and unleſs the goods and chattels ſold or contained in ſuch bill or bills of ſale, ſhall be actually delivered into the poſſeſſion of the vendee or vendees, as ſoon as conveniently may be, after the making of ſuch ſale or bill or bills of ſale.

SECT. 3. *And* if ſuch goods and chattels ſold, or contained, or mentioned in ſuch bill or bills of ſale, ſhall afterwards return or come into, and continue in the poſſeſſion of ſuch vendor or vendors, the ſame ſhall be chargeable and liable to the demands of all creditors of ſuch vendor or vendors as aforeſaid.

SECT. 4. *Provided always, and be it further enacted by the authority aforeſaid*, That all bills of ſale made of goods or chattels within any of the counties of this government, by any perſon or perſons within the ſame to any other perſon or perſons, ſhall be good and effectual againſt the vendor or vendors of ſuch goods and chattels, any thing herein contained to the contrary notwithſtanding.

CHAP. LXXXIII. a.

An ACT *for acknowledging and recording deeds.* 15 Geo. II.

SECTION 1. BE *it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That there ſhall be an Office of Record in each county of this government, which ſhall be called and ſtiled, *The office for recording of deeds*; and ſhall be kept in ſome convenient place in the ſaid reſpective counties; *(a)* and the Recorder ſhall duly attend the ſervice of the ſame, and at

An Office of Record to be kept in each county.

(a) See this provided for in article 8. ſect. 5. of the conſtitution of June 1792, and alſo in chap. 80. c. paſſed Feb. 7. 1795.

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at his own proper coſts and charges ſhall provide good large books of royal or other large paper, well bound and covered, wherein he ſhall record, in a fair and legible hand, all deeds and conveyances which ſhall be brought to him for that purpoſe, according to the true intent and meaning of this act.

All Deeds, &c. ſhall be recorded.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That all bargains and ſales, deeds and conveyances of lands, tenements and hereditaments within this government, ſhall be recorded in the ſaid office within one year after the execution thereof: But before the ſame ſhall be ſo recorded, the grantee or grantees, or ſome other proper perſon for ſuch grantee or grantees, ſhall procure the grantor or bargainer named in every ſuch deed, or his, her or their Attorney or Attornies for that purpoſe appointed, to acknowledge that ſuch deed or deeds, conveyance or conveyances, is or are the act or acts, deed or deeds, of ſuch grantor or grantors, to appear before the Court of Common Pleas of the proper county where the lands lie; which ſaid court is hereby impowered to take an acknowledgment of the grantor, if one, or one of the grantors, if more, or his, her or their Attorney or Attornies, that the ſame is his, her, or their act and deed. *(b)* But in caſe the grantor be dead, or cannot appear, and no Attorney be appointed as aforeſaid, the grantee or grantees, or ſome proper perſon for ſuch grantee or grantees, ſhall and may procure one or more of the witneſſes that were preſent at the execution thereof, to be brought before ſuch court, who ſhall be examined upon oath or affirmation to prove the execution of the deed or conveyance then produced; whereupon the Clerk of the ſaid Court, under his hand, and ſeal of the county, ſhall certify ſuch acknowledgment or proof upon the back, or at the foot of the deed or conveyance as aforeſaid, with the day and year when the ſame was made, and by whom:

But firſt to be acknowledged, &c.

Or proved.

(b) By article 6. ſect. 6. of the conſtitution of June 1792, any Judge of the Supreme Court or of the Court of Common Pleas may out of court take the acknowledgment of deeds for the purpoſe of recording. As to the acknowledgment of deeds by Feme Coverts of lands in their own right, ſee chap. 60. a. ſect. 9. 7 George II. and the note there (c) referring to chaps. 218. a. and 68. c.

whom: And after the ſame ſhall be recorded, the Recorder ſhall certify on the back, or at the foot thereof, under his hand and ſeal of his office, the day he recorded the ſame, and the name or number of the book and page wherein it is recorded.

Recording to be certified.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That where any deed or deeds, conveyance or conveyances, or Power of Attorney, for granting or conveying of any lands or tenements within this government, *(c)* or Power of Attorney to acknowledge ſuch deed or deeds, conveyance or conveyances, ſhall hereafter be made or executed by any perſon or perſons out of this government, ſuch deed or deeds, conveyance or conveyances, or Power of Attorney, ſhall be proved by one or more of the witneſſes to ſuch deed or deeds, conveyance or conveyances, or Power of Attorney, in open court, in the county where the lands or tenements lie; *(d)* and ſuch witneſs or witwitneſſes ſhall upon a legal qualification declare, that he, ſhe, or they, was or were preſent, and ſaw ſuch deed or deeds, conveyance or conveyances, or Power of Attorney, duly ſigned, ſealed and delivered by the party or parties making ſuch deed or conveyance, or Power of Attorney.

Deeds, &c. made out of the government ſhall be proved, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all deeds and conveyances made and to be made, and proved or acknowledged and recorded as aforeſaid, which ſhall appear ſo to be by certificate made thereon, according to the true intent and meaning of this act, ſhall be of the ſame force and effect here for the giving poſſeſſion and ſeizin, and make good the title and aſſurance of the lands, tenements and hereditaments, as deeds of feoffment with livery and ſeizin, or deeds enrolled in any of the King's Courts of Record at Weſtminſter, are or ſhall be in that

Deeds, &c. ſo proved, acknowledged and recorded, ſhall be good, &c.

(c) See before in chap. 28. a. ſect. 4, 5. declaring that all ſales or conveyances of lands, &c. in virtue of Powers of Attorney proved where executed, &c. or in the Courts of Common Pleas of the government, by any of the witneſſes thereto ſhall be good, &c. And that ſuch Letters of Attorney ſhall be deemed in force until due notice to the Attorney of a countermand, revocation or death of the conſtituent.

(d) And ſee after in chap. 227. a. 15 George II. providing that all deeds, conveyances and Powers of Attorney, made out of the government, may be proved where executed. And in chap. 218. a. paſſed April 12, 1773. That the private examination of Feme Coverts, parties to grants of Lands in their own right, may be taken in the like manner.

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part of Great Britain called England; and the copies or exemplifications of all deeds ſo enrolled, being examined by the Recorder, and certified under his hand and ſeal (which the Recorder or keeper of the records is hereby required to affix thereto) ſhall be allowed in all courts of law where produced, and are hereby declared and enacted to be as good evidence, and as valid and effectual in law as the original deeds or conveyances, or as bargains and ſales enrolled at the ſaid courts at Weſtminſter and copies thereof can or may be, and the ſame may be ſued, pleaded, and made uſe of accordingly.

Force of the words, grant, bargain and ſell, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That in all deeds to be recorded in purſuance of this act, whereby any eſtate of inheritance in fee-ſimple ſhall hereafter be conveyed to the grantee and his heirs or aſſigns, the words [*grant, bargain, and ſell,*] ſhall be judged an expreſs covenant to the grantee, his heirs and aſſigns, *To wit*, That the grantor was ſeized of an indefeazable eſtate in fee-ſimple, freed from all incumbrances done or ſuffered by the grantor (excepting the rents and ſervices due to the lord of the fee) as alſo for quiet enjoyment againſt the grantor, his heirs and aſſigns, unleſs limited by expreſs words contained in ſuch deeds; and that the grantee, his heirs, executors, adminiſtrators and aſſigns, may in any action aſſign breaches, as if ſuch covenants were expreſſly inſerted.

SECT. 6. *Provided always*, That this act ſhall not extend to leaſes on rent, or to leaſes not exceeding twenty-one years, where the actual poſſeſſion goes with the leaſe.

No mortgage ſhall be good, unleſs recorded.

SECT. 7. *And be it further enacted*, That no mortgage-deed, or defeazable deed in the nature of mortgages, hereafter to be made, ſhall be good or ſufficient to paſs any freehold or inheritance, or to grant any eſtate therein for life or years, unleſs ſuch deed be acknowledged, or proved and recorded in the county where the lands or tenements lie, within twelve months after the date thereof, as herein is before directed for other deeds.

SECT. 8. *And be it further enacted*, That every mortgagee within this government, his or her heirs, executors,

executors, adminiſtrators or aſſigns, having received full ſatisfaction and payment of all ſuch ſum and ſums of money as are really due to him or them by ſuch mortgage, ſhall, at the requeſt of the mortgager, his heirs or aſſigns, enter ſatisfaction upon the margin of the record of ſuch mortgage recorded in the ſaid office, which ſhall for ever thereafter diſcharge and releaſe the ſame, and ſhall likewiſe bar all actions brought or to be brought thereon. And if any ſuch mortgagee, his heirs, executors, adminiſtrators or aſſigns, by him or themſelves, or his or their Attorney, ſhall not within three months next after requeſt and tender made for his or their reaſonable charges, repair to the ſaid office, and there cauſe ſuch ſatisfaction to be entered as aforeſaid; he or they neglecting or refuſing ſo to do, ſhall for ſuch neglect or refuſal forfeit and pay unto the party or parties aggrieved, any ſum or ſums of money not exceeding the conſideration mentioned in the mortgage-deed, to be recovered, together with coſts, in any Court of Record within this government, by bill, plaint or information.

Mortgagee having received payment, ſhall enter ſatisfaction on the margin of the record.

Forfeit on neglect or refuſal.

SECT. 9. *And whereas* it hath been cuſtomary for ſome perſons to lett out money at intereſt upon mortgage of lands, tenements and hereditaments within this government, and to take of the mortgagers abſolute deeds of bargain and ſale, or deeds of leaſe and releaſe which have been acknowledged and recorded, and to give them ſeparate defeazances, which have not been recorded, and upon diſcharge or payment of the mortgage-money and intereſt, to return to the mortgager, his heirs or aſſigns, the ſaid deeds, with ſhort releaſes thereon indorſed, which have not been acknowledged or recorded; whereby great difficulties will hereafter ariſe to the true and rightful owners of the ſaid lands, tenements or hereditaments, and ſuits for the ſame may be brought againſt them by the heirs of ſuch mortgagees; *Be it therefore enacted by the authority aforeſaid*, That where any perſon ſhall, after the publication of this act, take or receive any abſolute deed of conveyance, or deed of leaſe and releaſe from the mortgager of any real or perſonal eſtate, as aforeſaid, and ſhall give or make any defeazance

Defeazances to be acknowledged, &c. within twelve months.

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feazance or other contract in writing in the nature of a defeazance, for redemption and discharge of such estate mortgaged; every such mortgager shall, and is hereby required to cause such defeazance, or other contract in writing, as aforesaid, to be acknowledged, or proved and recorded, within the space of twelve months next after the execution thereof: And if such mortgager shall neglect so to do, he or she shall lose all benefit whatsoever of the said defeazance, and the same shall be utterly null and void.

Mortgages being paid off, reconveyances to be made.

SECT. 10. *And be it further enacted by the authority aforesaid*, That whenever any deed or conveyance, which shall be defeazanced as aforesaid in the nature of a mortgage or mortgages, shall be paid off, and satisfied in the mortgagee or mortgagees, his or their heirs, executors, administrators or assigns, they and every of them shall, at the reasonable request, and at the proper cost and charges of the mortgager, his heirs, executors, administrators or assigns, by good and sufficient deeds and conveyances in the law, reconvey unto such mortgager or mortgagers, his or their heirs, executors, administrators or assigns, for the use of the said mortgager or mortgagers, his or their heirs and assigns, all and every the lands, tenements and hereditaments so conveyed as aforesaid, with the appurtenances, under the penalty of the value of the lands and tenements so mortgaged, to be recovered in manner aforesaid, for the use of the mortgager, his heirs or assigns.

Recorders to find secureties, &c.

SECT. 11. *And be it further enacted by the authority aforesaid*, That before any of the said Recorders shall enter upon their respective offices, they shall find sureties as follows, *viz.* The said Recorder of Deeds shall give bond to the County Court, or to the County Treasurer within the county where such Recorder shall be appointed for the time being,*(e)* with one or more sufficient sureties in a bond of Five Hundred Pounds, conditioned for the true and faithful execution of his office, and for delivering up the records and

(e) See chap. 5, c. sect. 6. passed February 2, 1793, directing all bonds and recognizances of public officers, &c. to be taken by the Secretary in the name of the state, except as there excepted.

and other writings belonging to the ſaid office, whole, ſafe, and undefaced to his ſucceſſor in the ſaid office; and ſhall take a receipt for the ſame, which ſhall contain a liſt thereof; which ſaid bond and receipt ſhall be preſerved and kept ſafely by the Juſtices of the ſaid Court, or County Treaſurer, in order to be ſued and proſecuted, for making ſatisfaction to the parties that ſhall be damnified or aggrieved, or for not delivering the ſame in manner aforeſaid, as is or ſhall be in ſuch caſes directed by the laws of this government. And that no Recorder of Deeds whatſoever, hereafter appointed as aforeſaid, ſhall enter upon, or officiate in the ſaid office, before he hath given ſuch ſurety as aforeſaid, upon pain of forfeiting the ſum of One Hundred Pounds, the one half to the Governor, for ſupport of government, and the other half to him or them that will ſue for the ſame, to be recovered as aforeſaid.

Penalty on officiating before ſecurity given.

SECT. 12. *And be it enacted by the authority aforeſaid*, That all acts of Aſſembly, and laws of this government, heretofore made or enacted, any way relating to, or concerning the recording of any deeds or conveyances, or mortgages, or the proving or acknowledging them, or any of them, or of any Letters or Powers of Attorney for the conveying of lands or tenements, or acknowledging of any ſuch deeds or conveyances, as aforeſaid, contrary to this act; be, and the ſame are hereby repealed, and declared to be null and void to all intents and purpoſes whatſoever.

Former acts repealed.

CHAP. LXXXIV. a.

A Supplementary Act to an act of General Aſſembly of this Government, entituled, An act for the advancement of juſtice, and more certain adminiſtration thereof.

15 Geo. II.

WHEREAS the act of General Aſſembly of this government, made in the ſixth year of the reign of his late Majeſty King George the Firſt, entituled,

CHAP. LXXXIV. 15 Geo. II.

entituled, *An act for the advancement of juſtice, and more certain adminiſtration thereof*; *(a)* doth not clearly appear to have ſufficiently provided for the manner of trial and puniſhment of petty treaſon, miſpriſion of treaſon, murder, manſlaughter, homicide, beſtiality, inceſt and bigamy;

SECTION 2. *BE it therefore enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That every perſon or perſons, who ſhall be guilty of any petty-treaſon, *(b)* miſpriſion of treaſon, murder, manſlaughter, homicide, beſtiality, inceſt or bigamy, ſhall be tried in like manner as other felons by the ſaid act are directed to be tried, and puniſhed in the like manner as perſons guilty of the like crimes and offences are puniſhable by the laws and ſtatutes of that part of Great Britain called England.

CHAP. LXXXV. a.

15 Geo. II. *An* ACT *to prevent abuſes committed by deſtroying timber and other trees within this government.*

SECTION. 1. BE *it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if

(a) See before in chap. 22. a.

(b) By an act paſſed June 5, 1787. chap. 158. b. It is declared that petit treaſon ſhall thereafter be puniſhed as in caſe of a felony of death, and in no other manner.

if any perſon or perſons ſhall fall or cut down any timber, tree or trees upon the land of any other perſon or perſons within this government, without leave firſt had of the owner or owners thereof, every ſuch perſon ſo offending ſhall for every ſuch tree ſo fallen or cut down, forfeit the ſum of Fifty Shillings, to be recovered, with coſts of ſuit, by action of treſpaſs to be brought upon this act by the party injured; and in caſe ſuch treſpaſſer or treſpaſſers ſhall not be able to pay ſuch damages and coſts as aforeſaid, he or they ſhall be adjudged by the Juſtices of the Court wherein a verdict ſhall be obtained againſt ſuch offender or offenders, to make ſatisfaction for the ſaid damages and coſts, by ſervitude, for any term of time not exceeding four years.

Penalty on falling timber on the land of others.

SECT. 2. *And* that every tree which at the diſtance of two feet from the ground ſhall be found or deemed to meaſure one foot over, or more, ſhall be adjudged a timber-tree.

What ſhall be deemed a timber-tree.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall fall or cut down any fire- or under-wood on the land of another perſon or perſons within this government, without leave firſt had as aforeſaid, every ſuch perſon ſo offending ſhall forfeit treble the value of all ſuch fire- or under-wood ſo fallen or cut down, with coſts of ſuit, to be recovered in manner abovementioned; and for want of goods and chattels to ſatisfy ſuch damages and coſts, the offender ſhall be adjudged by the Juſtices of the Court wherein a verdict ſhall be given againſt ſuch offender or offenders, to make ſatisfaction for the ſaid damages and coſts by ſervitude, as aforeſaid.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That an act of Aſſembly of this government, entituled, *An act about cutting timber trees*, ſhall be and is hereby repealed.

A former act repealed.

CHAP.

CHAP. LXXXVI.

15 Geo. II.

CHAP. LXXXVI. a.

An ACT *for limitation of actions, and proving accounts againſt the eſtates of perſons dying within this government.*

SECTION 1. BE *it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That no perſon or perſons that now hath or have any right or title of entry into any lands, tenements or hereditaments, now held from him or them, ſhall thereinto enter, but within twenty years next after the end of this preſent Seſſion of General Aſſembly, or within twenty years next after any other title of entry accrued; and that no perſon or perſons ſhall at any time hereafter, make any entry into any lands, tenements or hereditaments, but within twenty years next after his or their right or title, which ſhall hereafter firſt deſcend or accrue to the ſame: And in default thereof, ſuch perſon or perſons ſo not entering and bringing his or their action or actions, and their heirs, ſhall be utterly excluded and diſabled from ſuch entry or action to be made or brought, any former law, ſtatute or act of Aſſembly to the contrary notwithſtanding. *(a)*

Perſons having right of entry into lands, &c. ſhall not enter after twenty years, &c.

SECT.

(a) See a ſupplementary act hereto, chap. 216. a. paſſed April 12, 1773, providing an expreſs ſaving to the operation of this clauſe in favour of minors, Feme-Coverts, perſons Non Compos Mentis, impriſoned, or not within any of his (then) Majeſty's dominions in America, they and their heirs making entry, or bringing action within ten years after impediment removed.

See alſo an additional ſupplementary act hereto, chap. 40. c. paſſed June 19, 1793, declaring that no perſon ſhall make an entry into lands, &c. but within twenty years after right or title deſcended, or accrued, nor maintain any writ of rightor other action, or make any claim to lands, &c. and alledge any ſeiſin but an actual ſeiſin within twenty years; with a proviſo in favour of perſons at the time of paſſing the ſaid additional ſupplementary act, having a right of entry to bring ſuit within ten years thereafter and a further proviſo in favour of an infant, Feme-Covert, Non Compos Mentis or a priſoner, for ten years after the removal of ſuch diſability, and of the heirs of ſuch as die under any of the ſaid diſabilities.

SECT. 2. *And be it further enacted by the authority aforesaid*, That all actions of trespass, trespass *vi & armis*, *quare clausum fregit*, all actions of detinue, trover and replevin for taking away goods or cattle, all actions upon account, and upon the case, (other than such accounts as concern the trade of merchandize between merchant and merchant, their factors and servants) all actions of debt grounded upon any lending or contract without specialty, all actions of debt for arrearages of rent (the proprietary's quit-rent excepted) all actions of trespass, assault, menace, battery, wounding and imprisonment, or any of them, which shall be sued or brought at any time after the publication of this act, shall be commenced and sued within the time and limit hereafter expressed, and not after, *That is to say*, The said actions upon the case (other than for slander) and the said actions of account, and said actions of debt, detinue and replevin for goods or cattle, within three years after the cause of such actions or suits, and not after. And the said actions of trespass, other than for assault, battery, menace, wounding, or imprisonment, and the said actions of trespass *Quare clausum fregit*, within three years after the cause of such actions or suits, and not after. *(b)* And the said actions of trespass for assualt, menace, battery, wounding, imprisonment, or any of them, within one year next after the cause of such actions or suits, and not after. *(c)* And the said actions upon the case for words, within one year next after the words spoken, and not after.

Actions of trespass, &c. within what time to be commenced.

SECT. 3. *And nevertheless be it enacted*, That if in any

(b) In chap. 216. aforesaid, the time and limit to sue in the preceeding actions was extended to six years, and no alteration as to the subsequent actions mentioned in this section; but by another additional supplementary act to this original act, chap. 248. b. passed February 4, 1792, all the actions in the above section (other than as there excepted) are to be, and may be sued within three years after the cause of action shall accrue, and not after, with a saving to minors, Feme Coverts, persons Non Compos Mentis, imprisoned, beyond sea, or out of the state, during such disability, and for one year after the same shall be removed: And as to persons who may be out of the state against whom any of the causes of the personal actions aforesaid do arise, at the time thereof, or after, before the time of bringing the same as aforesaid, be expired, three years are given next after their return: And by a further supplement to said chap. 248. b. to wit, chap. 35. c. passed June 18, 1793, it is declared that nothing in the said chap. 248. b. shall extend to any intercourse of traffic between merchant and merchant, &c. nor to any demands founded on mortgages, bonds, bills, promissory notes, or settlements under the hands of the parties concerned.

(c) All these extended to three years in chap. 248. b.

CHAP. LXXXVI.

15 Geo. II.

any of the ſaid actions or ſuits, judgment be given for the plaintiff or plaintiffs, and the ſame be reverſed by error, or a verdict paſs for the plaintiff or plaintiffs, and upon matter alledged in arreſt of judgment, the judgment be arreſted and ſtayed, and judgment therefore be given that the plaintiff or plaintiffs take nothing by his or their plaint, writ or bill, That in all ſuch caſes the plaintiff or plaintiffs, and his or their heirs, executors or adminiſtrators, as the caſe may require, where the action ſhall not by law die with the perſon, may commence a new action or ſuit from time to time within a year after ſuch judgment reverſed, ſtayed or given againſt the plaintiff or plaintiffs, as aforeſaid, and not after.

In what caſes a new action may be commenced.

Defendant in actions of treſpaſs, &c. may plead a diſclaimer, &c.

SECT. 4. *And be it further enacted*, That in all actions of treſpaſs *quare clauſum fregit*, hereafter to be brought, wherein the defendant or defendants ſhall in his or their plea diſclaim any title or claim to the land in which the treſpaſs ſhall be in the declaration ſuppoſed to be done, and the treſpaſs be by negligence, or involuntary, the defendant or defendants ſhall be admitted to plead a diſclaimer, and that the treſpaſs was by negligence, or involuntary, and a tender or offer of ſufficient amends for ſuch treſpaſs before the action brought; whereupon, or upon ſome of them, the plaintiff or plaintiffs ſhall be enforced to join iſſue; and if the ſaid iſſue be found for the defendant or defendants, or the plaintiff or plaintiffs ſhall be non-ſuited, the plaintiff or plaintiffs ſhall be clearly barred from the ſaid action or actions, and all other ſuit concerning the ſame.

Perſons within age, non compos, &c. being entitled to actions, may afterwards bring the ſame, ſo, &c.

SECT. 5. *Provided always, nevertheleſs*, That if any perſon or perſons, who is or ſhall be entitled to any ſuch action of treſpaſs, detinue, trover, replevin, actions of account or debt, actions of treſpaſs for aſſault, menace, battery, wounding or impriſonment, actions upon the caſe for words, are or at the time of any cauſe of ſuch action given, or accrued, fallen or come, ſhall be within the age of twenty-one years, *feme covert*, *non compos mentis*, impriſoned, or beyond ſea, or out of this government; that then, and in ſuch caſe, ſuch perſon or perſons ſhall be at liberty to bring the ſame actions, ſo as the ſame be brought within ſuch times

as

as are hereby before limited, after their coming to or being of full age, diſcoverture, of ſound memory, at large, or returning into this government *(d)*

SECT. 6. *And* if any perſon or perſons, againſt whom any of the cauſes of action before-mentioned do ariſe, ſhall at the time of the cauſe of ſuit or action ariſing, or afterwards before the time of bringing ſuch action be expired, be beyond ſeas, or go out of this government, then the perſon entitled to ſuch ſuit, may bring an action after the return of ſuch perſon, ſo as he bring the ſame within ſuch time after the return, as is before limited by this act.

Accounts againſt the eſtates of perſons deceaſed, may not be proved, unleſs, &c.

SECT. 7. *And* foraſmuch as many evils may ariſe, and great frauds be committed, by ſuffering perſons to prove accounts of long ſtanding againſt the eſtates of perſons dying within this government; for prevention whereof, *Be it enacted by the authority aforeſaid*, That no perſon or perſons whatſoever, from and after the publication of this act, who doth not, or ſhall not keep a day-book or other regular book of account, ſhall be admitted to prove or require payment of any account or demand againſt the eſtate of any perſon or perſons dying within this government, if ſuch account or demand ſhall appear to be older, or of any longer ſtanding than one year next before the death of the deceaſed perſon, unleſs ſuch perſon or perſons ſo pretending to be a creditor or creditors of the deceaſed, ſhall be able clearly to make appear, by one good and ſufficient evidence at leaſt, that his debt or demand is juſt and true: And that no perſon or perſons whatſoever, who do or ſhall keep regular books of account, ſhall be admitted to prove or require payment of any account or demand againſt the eſtates of perſons ſo dying as aforeſaid, if ſuch account or demand ſhall appear to be older, or of any longer ſtanding than three years next before the death of ſuch perſon or perſons ſo dying or deceaſed as aforeſaid. *(e)*

SECT.

(d) This and the next ſection 6. altered in the firſt ſupplementary act aforeſaid, chap. 216. a. in its ſections 5, 6. ſo as to correſpond with their preceding ſection 4, which were again altered and ſupplied in the ſaid act, chap. 248. b.

(e) This ſection alſo altered and ſupplied in the ſaid firſt ſupplementary act hereto, chap. 216. a. ſect. 7. which was again altered and further ſupplied in the aforeſaid additional ſupplementary act, chap. 248. b. in its ſections 3, 5, 6.

CHAP. LXXXVI.

15 Geo. II. Repeal of a former act.

SECT 8. *And be it further enacted by the authority aforeſaid*, That the act of Aſſembly of this government, entituled, *An act for the limitation of actions*, be and is hereby repealed.

CHAP. LXXXVII. a.

15 Geo. II. *An* ACT *to prevent the damages which may ariſe by firing the woodlands in the parts of this government in this act mentioned.*

Preamble. WHEREAS it is found by experience, that the annual firing the woods, as has been cuſtomary within this government, is very prejudicial to lands, and doth much impoveriſh the ſame, as well as deſtroy many timber-trees, and prevent the growth of young trees and woods; and alſo many fences and buildings have often been burnt by ſuch fires: For prevention whereof,

SECTION 2. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act, if any perſon or perſons ſhall, at any time or times whatſoever, wilfully fire or ſet on fire, or cauſe to fire or be ſet on fire, any woodlands, *(a)* whereby any other perſon or perſons ſhall ſuffer damage, within the limits herein after expreſſed, *That is to ſay*, within the county of New-Caſtle, any woodlands lying to the northward of the public highway called Nottingham Road, leading from the townſhip of Nottingham, in Cheſter county, to Chriſtiana Bridge; any woodlands lying to the eaſtward of

Limits within which woodlands ſhall not be ſet on fire.

(a) See before in chap. 80. a. a general regulation againſt firing the woodlands and marſhes within the government, other than between the tenth day of March and the firſt day of May yearly.

of the road leading from the aforeſaid bridge to the interſecting of the road leading down the ſaid county, from the town of New-Caſtle, near Red-Lion Run; or any of the woodlands lying to the eaſtward of the highway called the Upper Road, leading from the ſaid run down by the plantation late of Andrew Peterſon, eſq. deceaſed, to Blackbird's Bridge, and from the ſaid bridge down Blackbird's Creek to Delaware river: And within the county of Suſſex, any of the woodlands lying to the eaſtward of the King's highway or road leading down the ſaid county of Suſſex, from the place where the ſaid road croſſes the Three Runs to the Cool-ſpring Branch, and up the ſaid branch to the head thereof; thence, by the neareſt courſe, to the head of Bundick's Branch, which iſſueth into Rehoboth Bay; thence down the ſaid branch to the interſecting Indian-River Road; thence by the ſaid road to a landing on Indian-River, known by the name of Philip Aſkew's Landing; and thence down the ſaid river to the ocean; every ſuch perſon or perſons ſo offending, and being duly convicted thereof, by the teſtimony of one or more credible witneſſes, or confeſſion of the offender or offenders, before any two Juſtices of the Peace of the county where the offence is or ſhall be committed, ſhall, for every ſuch offence, forfeit and pay any ſum not exceeding Five Pounds, current money of this government, at the diſcretion of the ſaid juſtices, to be levied, together with coſts, by warrant under the hands and ſeals of the ſaid juſtices, before whom the conviction is had, on the offender's goods and chattels, and paid, within New-Caſtle county, the one moiety thereof to the Overſeers of the Poor of the hundred where the offence is committed, for the uſe of the poor of the ſaid hundred; and within the county of Suſſex, to the Treaſurer of the county, for the uſe of the poor of the ſaid county of Suſſex; the other moiety to the informer: And for want of ſuch goods and chattels, the offender or offenders ſhall, by ſuch juſtices, be adjudged to make ſatisfaction for the ſaid fine and coſts, by ſervitude; and ſhall alſo make good all damages, that, by ſuch firing and burning, ſhall happen to any of the inhabitants of

Penalty.

How to be recovered and diſpoſed of.

For want of effects, the offender ſhall make ſatisfaction by ſervitude.

this

CHAP. LXXXVII.

15 Geo. II.

this government, to be recovered, together with coſts, by bill, plaint or information, in any of his Majeſty's Courts of Record within this government.

Puniſhment of ſlaves offending againſt this act.

And if any Negro or Mulatto ſlave, or ſlaves, ſhall be duly convicted of ſuch offence, as aforeſaid, the ſaid juſtices ſhall, at the charge or charges of the owner or owners of ſuch ſlave or ſlaves, order and cauſe him, her or them, to be publicly whipt, with any number of laſhes not exceeding thirty-one, on his, her, or their bare back or backs, well laid on; and if the owner or owners of ſuch ſlave or ſlaves, ſhall neglect or refuſe to pay ſuch charge or charges, then the ſaid juſtices ſhall commit the ſaid ſlave or ſlaves to the common gaol of the county wherein the offence is committed, there to be kept, until the ſame, together with the coſts thereon ariſing, be paid and ſatisfied.

CHAP. LXXXVIII. a.

15 Geo. II. *An* ACT *for the relief of the poor.* (a)

CHAP. LXXXIX. a.

15 Geo. II. *An* ACT *for laying out roads.* Repealed.

CHAP.

(a) This act, ſo far as the ſame related to the county of New-Caſtle, was repealed and ſupplied by chap. 106. a. 17 Geo. II. and alſo repealed as to the county of Kent after in chap. 163. a. paſſed October 27, 1759; which laſt act of repeal was after repealed, and this original act revived as to the county of Kent in chap. 179. a. paſſed November 2, 1762: But after in chap. 202. a. paſſed March 24. the act of 17 Geo. II. chap. 106. a. entitled, "An act for the better relief of the poor in the county of New-Caſtle," was extended to the counties of Kent and Suſſex, and this original act totally repealed.

In March 29, 1775, "An act for the relief of the poor," to wit, chap. 225. a. was paſſed, where in ſect. 31, all acts of Aſſembly theretofore made for the relief of the poor, and every article, clauſe and thing in ſuch acts, were repealed and made void.

CHAP. XC. a.

CHAP. XC.

15 Geo. II.

An ACT *for the more effectual preventing and puniſhing the evil and wicked practices of horſe-ſtealing, and other felonies and offences committed within this government.*

WHEREAS the acts of Aſſembly of this government, heretofore made for the puniſhment of horſe-ſtealing, and other felonies and robberies, have been found inſufficient to reſtrain perſons of profligate and diſhoneſt minds, from committing ſuch offences; and the number of ſuch hath, of late years, greatly increaſed in this government, to the great damage of the inhabitants thereof: For the more effectual prevention whereof for the future, and for the more exemplary puniſhment of ſuch offenders, Preamble.

SECTION 2. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act, every perſon who ſhall feloniouſly ſteal, take or carry away any Negro or Mulatto ſlave, horſe, gelding, mare, or colt, or aid or aſſiſt any perſon or perſons, in committing any ſuch offence, and being thereof legally convicted or attainted, by verdict of a jury, or confeſſion of the party offending; or being indicted thereof, ſhall ſtand mute, or not directly anſwer to the indictment indorſed with the name or names of the proſecutor or proſecutors, or ſhall peremptorily challenge above the number of twenty perſons, legally returned to be of the jury for the trial of ſuch offenders, ſhall ſuffer death without benefit of clergy, in like manner as ſuch felons, by the laws now in force in Stealing of ſlaves, horſes, &c. death.

that

CHAP. XC.

15 Geo. II.

that part of Great Britain called England, any law of this government to the contrary notwithſtanding. *(a)*

Breaking into houſes in the day time, &c. death.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That every perſon who ſhall feloniouſly break or enter into any dwelling-houſe, out-houſe or other houſe whatſoever, in the day time, with an intent to kill ſome reaſonable creature, or to commit ſome other felony; or ſhall aid or aſſiſt any perſon or perſons in committing any ſuch offence, and being thereof legally convicted or attainted, by verdict of a jury, or confeſſion of the party offending, or being indicted thereof, ſhall ſtand mute, or not directly anſwer to the indictment indorſed with the name or names of the proſecutor or proſecutors, or ſhall peremptorily challenge above the number of twenty perſons legally returned to be of the jury for the trial of ſuch offender, ſhall ſuffer death without benefit of clergy, any law of this government to the contrary notwithſtanding.

Stealing to the value of Five Pounds out of any houſe, death.

SECT. 4. *And be it enacted by the authority aforeſaid*, That if any perſon or perſons whatſoever, being in a dwelling-houſe, or any other houſe, whether as a tenant, lodger, or otherwiſe, ſhall take, ſteal, or carry away, with an intent to imbezzle the ſame, any money, furniture, goods, wares, or merchandizes, whether he, ſhe, or they be intruſted with the ſame, or otherwiſe, to the value of Five Pounds current money of this government, to be valued by any two Juſtices of the county where the offence ſhall be committed, at the time of the complaint made by the party aggrieved, or the taking ſuch offender, every ſuch perſon ſo offending, ſhall be deemed a felon, and being thereof legally convicted or attainted, by verdict of a jury, or confeſſion of the party offending, or being indicted thereof, ſhall ſtand mute, or not directly anſwer to the indictment indorſed with the

(a) This ſect. 2. and alſo ſect. 6. are repealed and ſupplied in chap. 45. b. paſſed June 5, 1779, and the puniſhment there altered to fining, whipping, pilloring and cutting off part of the ear, and directing that inſolvent offenders make reſtitution by ſervitude not exceeding ſeven years.

Manumitted Negroes and Mulattoes convicted of horſe-ſtealing, to be tranſported and ſold for a term of years; for this ſee chap. 145. b. paſſed Feb. 3, 1787.

the name or names of the profecutor or profecutors, or ſhall peremptorily challenge above the number of twenty perſons, legally returned to be of the jury for the trial of ſuch offender, ſhall ſuffer death without benefit of clergy, any law of this government to the contrary notwithſtanding.

Entering into a manſion-houſe with intent to commit felony, &c. death.

SECT. 5. *And be it enacted by the authority aforeſaid*, That every perſon who ſhall enter into any manſion- or dwelling-houſe of another, by day or by night, without breaking the ſame, with an intent to commit felony, or being in ſuch houſe, ſhall commit any felony, and ſhall in the night-time break the ſaid houſe to get out of the ſame, ſhall be taken to be guilty of burglary, and ouſted of the benefit of clergy, in the ſame manner as if ſuch perſon had broken and entered the ſaid houſe in the night-time, with an intent to commit felony there, any law of this government to the contrary notwithſtanding.

Buying or receiving ſtolen horſes, ſlaves, &c. knowingly, death.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That every perſon who ſhall receive or buy, of any ſuch felon or felons, any Negro or Mulatto ſlave, horſe, gelding, mare, or colt, knowing the ſame to be ſtolen; or ſhall knowingly harbour or conceal any felon or felons, in this act before mentioned, or be aſſiſting to the eſcape of ſuch felon or felons, knowing him or them to be ſuch, ſhall be deemed guilty of felony, and being thereof legally convicted or attainted, by verdict of a jury, or confeſſion of the party offending, or being indicted thereof, ſhall ſtand mute, or not directly anſwer to the indictment indorſed with the name or names of the profecutor or profecutors, or ſhall peremptorily challenge above the number of twenty perſons, legally returned to be of the jury for the trial of ſuch offender, ſhall ſuffer death without benefit of clergy, any law of this government to the contrary notwithſtanding. *(b)*

Any perſon taking and proſecuting ſuch felons, ſhall have Five Pounds reward.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall take and proſecute any ſuch felon or felons to conviction

(b) Repealed and ſupplied as in note to ſect. 2.

CHAP. XC.

15 Geo. II.

tion, within this government, upon every ſuch conviction, and procuring a certificate thereof, under the hands of the judges or juſtices before whom the conviction ſhall be, or either of them, which the ſaid judges or juſtices are hereby directed and required to give, without taking any fee for the ſame, ſuch perſon or perſons ſhall receive of the Treaſurer of the county where ſuch conviction ſhall be had, the ſum of Five Pounds, lawful money of this government, which the ſaid Treaſurer is hereby directed and required to pay out of the public money of the ſaid county in his hands, which ſhall be raiſed upon the inhabitants of the ſaid county, in like manner as other county levies are raiſed.

Any felon diſcovering and convicting others, ſhall have Five Pounds, and a pardon.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall have committed any ſuch felony or felonies, and ſhall afterwards diſcover any other perſon, who ſhall have committed ſuch felony or felonies, ſo that he or ſhe be legally convicted thereof, every ſuch perſon ſo diſcovering, ſhall receive the like ſum of Five Pounds, to be paid and raiſed as aforeſaid, and ſhall alſo be entitled to a pardon of all felonies by him or her committed within this government before ſuch diſcovery, treaſon and murder excepted.

Exception.

Puniſhment for receiving ſtolen goods, wares, &c.

SECT. 9. *And be it enacted by the authority aforeſaid*, That every perſon, who ſhall receive or buy of any felon or felons any goods, wares, or merchandizes, knowing the ſame to be ſtolen, and being thereof legally convicted, by verdict of a jury or confeſſion of the party offending, ſhall be publicly whipt, on his or her bare back, with twenty-one laſhes, well laid on, and be branded on his or her forehead with the capital letter R; and ſhall moreover, for all ſuch goods, wares or merchandizes ſo received or bought, make fourfold ſatisfaction to the party injured, with coſts of proſecution: And if unable to make ſuch ſatisfaction, ſhall, for the making thereof, and payment of the coſts of proſecution, as aforeſaid, be aſſigned into ſervitude, by the court where the conviction is had or made, for any term of time not exceeding ſeven years, any law of this government to the contrary notwithſtanding.

CHAP.

CHAP. XCI. a.

CHAP. XCI.

15 Geo. II.

An ACT *againſt forcible entry, barratry, maintenance, champerty and embracery.*

SECTION 1. BE *it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That whoſoever ſhall forcibly enter into the houſe, lands, or poſſeſſions of any other perſon, or being entered peaceably, ſhall forceably hold the houſe, lands or poſſeſſions of any other perſon within this government, ſhall be proceeded againſt and puniſhed as by the ſeveral ſtatutes made againſt forcible entries and detainures in that part of Great Britain called England, is provided and directed.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That if any perſon within this government, be a common barrator, vexing others with unjuſt and vexatious ſuits, or ſhall promote or encourage others ſo to do, or ſhall be guilty of maintenance, champerty or embracery, every ſuch perſon ſo offending ſhall be proceeded againſt, and puniſhed for his offence, as by the common law and the ſeveral ſtatutes made againſt ſuch offences in that part of Great Britain called England, is provided and directed.

CHAP. XCII. a.

An ACT *for aſcertaining the proportion of the government charges hereafter to be paid by the ſeveral counties of New-Caſtle, Kent and Suſſex, on Delaware.* Repealed by an act of 15 Geo. III. chap. 230. ſect. 29.

15 Geo. II.

CHAP.

CHAP. XCIII.
15 Geo. II.

CHAP. XCIII. a.

An ACT *to prevent duelling, and fighting of duels within this government.*

FOR preventing of duelling, and fighting of duels within this government;

SECTION 1. *BE it enacted by the honorable George Thomas, esq. by and with his Majesty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Castle, Kent, and Sussex, on Delaware, and province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties, in General Assembly met, and by the authority of the same,* That if any person within this government shall challenge any other person to fight with sword, pistol, rapier, or any other dangerous and destructive weapon, every such person so challenging, being legally convicted thereof, by bill, plaint, or information, in any Court of Quarter Sessions within this government, shall forfeit and pay the sum of Twenty Pounds, or suffer three months imprisonment in the common gaol of the said county.

SECT. 2. *And* if any person shall carry or deliver to another person any such challenge, knowing it to be such, every such person carrying or delivering such challenge, being legally convicted as aforesaid, shall forfeit and pay the like sum of Twenty Pounds, or suffer three months imprisonment as aforesaid.

SECT. 3. *And* if any person shall accept any such challenge, and meet the person challenging, in order to fight as aforesaid, every such person so offending, and being thereof legally convicted as aforesaid, shall forfeit and pay the sum of Ten Pounds, or suffer six weeks imprisonment as aforesaid.

CHAP.

CHAP. XCIV. a.

CHAP. XCIV.

15 Geo. II.

An ACT *directing and impowering the ſeveral Sheriffs within this government, to ſummon a ſufficient number of freeholders to ſerve as jurors in the ſeveral counties thereof.*

SECTION 1. BE *it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That the Sheriffs of the reſpective counties within this government, ſhall, upon receiving a Writ of *venire facias*, to be to them reſpectively directed, for ſummoning a jury to attend a Court of Oyer and Terminer within any of the ſaid counties, forthwith proceed to ſummon twenty-four of the moſt able, ſufficient and ſubſtantial freeholders within their reſpective bailiwick, to ſerve as Grand Jurors, and forty-eight of the moſt diſcreet and judicious freeholders, to ſerve as Petty Jurors, at the court aforeſaid; *(a)* which ſaid Grand Jurors and Petty Jurors ſhall be ſummoned at leaſt ten days before the day appointed for holding the ſaid courts within the ſaid counties. And if any of the ſaid jurors ſo ſummoned as aforeſaid, ſhall refuſe or neglect

Sheriffs ſhall ſummon twenty four Grand and forty-eight Petty Jurors, ten days before the court.

(a) See "An act for more certainly obtaining returns of impartial juries, and their better regulation," chap. 8. c. paſſed February 2, 1793, directing Sheriffs, &c. to ſummon and return as jurors for the trial of all iſſues in civil and criminal cauſes, a number not leſs than thirty-ſix, nor more than ſixty; without a ſpecial direction of two judges of the courts reſpectively, for a greater number, not exceeding eighty-four, of ſober and judicious perſons of fair character, and none other; ſuch ſummoning to be in writing at leaſt ten days before the return day of the writ or proceſs, annexing thereto a panel containing their chriſtian and ſir names, additions and places of abode, with divers ſpecial proviſions for drawing juries from the numbers ſo returned, puniſhing defaults, ſupplying deficiencies by an award for a Tales de circumſtantibus, providing in caſe of views when allowed, for keeping a regiſter of the ſummoned jurors, furniſhing each one with a certificate of his attendance gratis, and laſtly, providing for their payment.

See alſo chap. 204. a. ſect. 27. paſſed March 24, 1770. That if any juror has any matter of fact at iſſue depending for trial at the ſame court it is a ſufficient cauſe of challenge, ſuch juror not compellable to ſerve, nor to receive any reward for attendance.

CHAP. XCIV.

15 Geo. II.

lect to attend at the ſaid courts, they and every of them ſhall be fined by the ſaid court, according to the directions of an act of General Aſſembly of this government, entituled, *An act againſt jurors abſenting themſelves, being lawfully ſummoned to attend the ſeveral courts of judicature within this government.* (b)

Penalty on their not attending.

Penalty on Sheriffs returning jurors not ſo ſummoned.

Sect. 2. *And be it further enacted by the authority aforeſaid*, That if any Sheriff or Sheriffs from and after the end of this preſent Seſſions of Aſſembly, ſhall or do return any perſon or perſons to ſerve as aforeſaid, when in truth ſuch perſon or perſons ſhall not have been ſummoned according to the directions aforeſaid, ſuch Sheriff or Sheriffs ſhall for every ſuch offence, be fined by the ſaid court, in any ſum not exceeding Ten Pounds, and ſhall be committed till ſuch fine ſhall be paid. And if any Sheriff or Sheriffs ſhall refuſe or neglect to ſummon and return perſons to ſerve on the juries as before directed, whereby juſtice may be delayed, if not altogether eluded; ſuch Sheriff or Sheriffs ſhall for every ſuch refuſal or neglect, be fined by the ſaid court in any ſum not exceeding One Hundred Pounds, and ſhall be committed until ſuch fine be paid, and be diſabled from holding or exerciſing the ſaid office, during the term of three years then next enſuing.

A ſtanding Grand Jury to be ſummoned for the year,

Sect. 3. *And be it further enacted by the authority aforeſaid*, That the reſpective Sheriffs of the ſeveral and reſpective counties within this government, ſhall, at leaſt ten days before May Seſſions, yearly, and every year, without any Writ of *venire facias*, proceed to ſummon and return twenty-four ſubſtantial and judicious freeholders, lawful men, and inhabitants of his bailiwick, to ſerve as Grand Jurymen at the next May Seſſions aforeſaid; which ſaid perſons, or a ſufficient number of them, ſo ſummoned and returned, ſhall be and remain the ſtanding Grand Jury for that year: But the Juſtices of the reſpective Courts of Quarter Seſſions are hereby required to adminiſter or cauſe to be adminiſtered to the ſaid jurors every ſeſſions the qualifications uſual for the faithful diſcharge of their duty and truſt. And the Sheriffs of the ſaid reſpective counties are hereby required

but to be qualified every ſeſſions.

(b) See before chap. 48. a.

quired to ſummon twenty-four able, diſcreet and judicious freeholders, legal men, and inhabitants in the bailiwick to ſuch Sheriffs reſpectively belonging, at leaſt ten days before each and every Court of Quarter Seſſions, to ſerve as Petty Jurymen for the court or ſeſſions to which they are ſummoned, and make return of the perſons ſo ſummoned, at the reſpective ſeſſions, *(b)* which perſons ſo ſummoned and returned by the Sheriffs as aforeſaid to ſerve as Grand and Petty Jurors, are hereby required to attend the reſpective courts, upon pain of being fined by the courts for ſuch their default, according to the directions of the act of Aſſembly aforeſaid.

Petty Jurors to be ſummoned, &c.

SECT. 4. *Provided always*, That no perſon ſhall be obliged to ſerve as a Grand Juryman for two years ſucceſſively in any of the ſaid counties.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the Sheriffs of the reſpective counties of this government, ſhall, and are hereby required and authoriſed, from time to time, and at all times hereafter, when and as often as occaſion may require, to ſummon all and every other inqueſts, or jurors, which Sheriffs ought to ſummon, or evidences requiſite and neceſſary for the executing juſtice within their reſpective counties, who are hereby required to give due attendance accordingly; *(c)* and the neglects or defaults of the Sheriffs aforeſaid, or any of them, ſhall be puniſhed by fine as aforeſaid.

Sheriffs to ſummon all other inqueſts, &c.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That the Coroners of the reſpective counties aforeſaid, ſhall and are hereby required to conduct, regulate and behave themſelves in ſummoning juries, or other matters where the Sheriff cannot legally do it, by reaſon of his affinity to any ſuitors, or otherwiſe, in the ſame manner and form as the Sheriffs are by this act directed and impowered, under the like penalties to be inflicted and laid upon Sheriffs for neglects and defaults contrary to this act. And all perſons are hereby required, in ſuch caſes, to pay the ſame obedience and attendance

Duty of Coroners in particular caſes.

(b) As to Petty Jurymen, ſee preceding note *(a)*

(c) As to neglects or defaults in witneſſes attendance, See before, in chap. 38. a. 2 Geo. II.

CHAP. XCIV. 15 Geo. II.

attendance to the precepts and ſummons of ſuch Coroner or Coroners as before directed, as to the precepts and ſummons of the Sheriffs aforeſaid, under the like penalties as above mentioned; and generally to do and execute all other matters and things, which to their offices by the laws of that part of Great Britain called England, appertain, under the penalties inflicted by the laws of England, for ſuch their neglect or default, ſo far as the ſame have received no alteration by this act.

Fines how to be diſpoſed of.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That all the fines and forfeitures ariſing or becoming due by virtue of this act, ſhall be and remain, the one moiety thereof to the Governor for the time being, towards the ſupport of government, *(d)* the other moiety to be paid to the Treaſurer of the county, for the uſe of the poor of the county where the offence is or ſhall be committed.

Repeal of a former act.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That an act of Aſſembly of this government, entituled, *An act for ſummoning of juries, and about trials by twelve men*, ſhall be, and the ſame is hereby repealed.

CHAP. XCV. a.

15 Geo. II.

An ACT *againſt ſpreading falſe news and defamation.*

FOR the reſtraining of evil-minded perſons, who by ſeditious words or libels may endeavour to diſturb the public peace and quiet of this government, or defame any of the inhabitants thereof;

SECTION 1. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and*

(d) This firſt moiety to go to the uſe of the ſtate, by chap. 6. b. ſect. 5, paſſed February 22, 1777.

CHAP. XCV.

15 Geo. II.

and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That if any perſon ſhall ſpeak or write any thing tending to the diſturbance of the peace of this government, or ſhall maliciouſly report and ſpread abroad falſe news tending thereto, ſuch perſon, being thereof legally convicted in any Court of Quarter Seſſions in this government, upon preſentment or indictment, ſhall be fined by the ſaid court in any ſum not leſs than Five Pounds, nor exceeding Twenty Pounds, or ſuffer three months impriſonment at hard labour in the houſe of correction. And that all the fines and forfeitures ariſing by this act, ſhall be paid to the Governor for the time being, for the ſupport of government.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That whoſoever ſhall ſlander or defame any perſon whatſoever within this government, the perſon or perſons ſo ſlandered or defamed may bring his or their action at law againſt ſuch ſlanderer or ſlanderers; and if the plaintiff in ſuch action ſhall obtain a verdict, although the damages given may be under Forty Shillings, the plaintiff in ſuch action or actions ſhall recover his or her coſts, in ſuch manner as he or ſhe ſhould have done in caſe the jury had found damages to the value of above the ſum of Forty Shillings. *(a)* And all former acts of Aſſembly of this government concerning defamation and ſlander, are hereby repealed.

CHAP. XCVI. a.

An ACT *directing the puniſhment of petty larceny.* Repealed and ſupplied in chap. 120. b. paſſed June 4, 1785, where this offence is to be proſecuted and puniſhed as in the "Act againſt larceny to the value of Five Shillings and upwards," for which ſee chap. 120. a. ſects. 1, 2, 3. 25 Geo. II. 15 Geo. II.

(a) Ante chap. 86. a. ſect. 2. and notes there.

CHAP. XCVII.

15 Geo. II.

CHAP. XCVII. a.

An ACT *againſt truſting mariners.*

TO the end that no ſhip or veſſel may be detained from proceeding in the intended voyage by the arreſt of any ſailor or mariner ſhipped or belonging to any ſuch ſhip or veſſel in any port or harbour within this government;

BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That no tavern-keeper or innholder, or other perſon within this government, ſhall truſt any ſailor or mariner ſhipped or belonging to any ſhip or veſſel in any port or harbour within this government, above the ſum of Ten Shillings, unleſs the Maſter, Commander or Owner of ſuch ſhip or veſſel, to which ſuch ſailor or mariner belongs, give his or their orders or conſent for the truſting ſuch ſailor or mariner. And that no perſon truſting any ſailor or mariner belonging to, or ſhipped as aforeſaid, for any value above the ſum of Ten Shillings, without ſuch order or conſent as aforeſaid, after tender to him or her made of the ſaid ſum of Ten Shillings, and coſts, if any ſhall have ariſen, ſhall ſtop or hinder ſuch ſailor or mariner from proceeding the intended voyage for which he ſhall then be ſhipped, any law, cuſtom or uſage to the contrary notwithſtanding.

CHAP.

CHAP. XCVIII. a.

CHAP. XCVIII.

15 Geo. II.

An ACT *for the appointing a corder or meaſurer of fire-wood in each of the towns and villages within this government.*

SECTION 1. BE *it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That all fire-wood ſold and bought in any of the towns and villages within this government, ſhall be by the cord, each cord to contain in length eight feet, in breadth four feet, and in height four feet, and ſo in proportion for a greater or leſſer quantity: And that all ſuch wood ſhall be of the length of eight feet, or of four feet, to be meaſured from the extremity at one end unto the beginning of the cut or carf at the other end, and ſhall be laid or corded as cloſe as poſſible, and all crooked pieces, if occaſion be, ſhall be cut, for the more compact and better ſtowage thereof.

Fire-wood ſhall be ſold by the cord;

meaſure of a cord.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That the Juſtices of the Court of Quarter Seſſions, in each of the counties within this government, ſhall and are hereby required, from time to time, as often as occaſion ſhall be, to appoint ſome ſuitable and proper perſon to be a meaſurer or corder of all fire-wood which ſhall be brought for ſale into any of the towns or villages within the ſeveral counties; and the ſaid perſon or perſons ſo appointed, upon miſbehaviour to remove from his or their office, and ſome other more ſuitable perſon to appoint in his or their room and ſtead. And that there ſhall be paid by the buyer of ſuch wood unto the ſaid corder or corders, or his or their deputy or deputies reſpectively, for each cord of wood by him or them corded and

Juſtices impowered to appoint corders.

meaſured

CHAP. XCVIII.

15 Geo. II.

Corder's fee.

measured, the ſum of Six-pence, *(a)* and ſo in proportion for any greater or leſſer quantity, one half whereof ſhall by the perſon ſelling the ſame, be repaid to the buyer, or deducted out of the price thereof; and upon non-payment thereof, the ſame may be recovered by the ſaid corder, deputy and buyer reſpectively, in like manner as debts under Forty Shillings.

Corders may appoint deputies.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the ſaid corder of wood for any of the towns or villages within this government, to appoint one or more deputy or deputies to be his aſſiſtant or aſſiſtants, when and ſo often as he ſhall ſee or have occaſion. But before the ſaid corder or corders of wood, hereafter to be appointed by virtue of this act, enter upon the execution of the truſt hereby repoſed in him or them, every corder and deputy ſhall be qualified upon oath or affirmation before ſome Juſtice of the Peace of the ſame county wherein ſuch corder or corders, deputy or deputies ſhall be appointed; which oath or affirmation any ſuch juſtice is hereby impowered and required to adminiſter, *That he or they will well and truly, to the beſt of his or their knowledge and ability, fairly and impartially cord aud meaſure all ſuch wood as he or they ſhall cord.*

Corders to be qualified:

Penalty on other perſons meaſuring of wood.

And no perſon or perſons whatſoever, without deputation from the corder, ſhall cord or meaſure any firewood hereafter to be ſold or brought to ſale into any of the towns or villages aforeſaid, upon pain of forfeiting the ſum of Ten Shillings for each cord of wood by him or them corded or meaſured, and in proportion for any leſſer quantity, to be recovered, together with coſts, by diſtreſs and ſale of the offender's goods and chattels, by warrant under the hand and ſeal of any Juſtice of the Peace of the ſame county, and paid, the one moiety thereof to the corder for the time being, the other moiety to the informer.

CHAP.

(a) See a ſupplementary act hereto, chap. 109. c. paſſed February 9, 1796. This fee increaſed to Ten Cents penalty for neglect of duty in ſect. 3.

CHAP. XCIX. a.

CHAP. XCIX.

15 Geo. II.

An ACT *for eſtabliſhing a market in the town of Dover in the county of Kent, and in the town of Lewes in the county of Suſſex, within this governmeut. (a)*

WHEREAS the want of regular markets in the towns of Dover in the county of Kent, and Lewes in the county of Suſſex, within this government, is attended with great inconveniencies as well to the inhabitants as to perſons offering proviſions to ſale in the ſaid towns: For remedy whereof,

SECTION 2. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act, no perſon or perſons whatſoever, ſhall preſume either to buy or ſell any kind of proviſions (fiſh, milk and bread excepted) on market-days, within any part of the ſaid town of Dover, but in ſuch part of the market-ſquare, as by the Juſtices of the ſaid county of Kent, or the majority of them, ſhall be appointed, until there ſhall be erected a market-houſe in the ſaid town, and after the building of a market-houſe, ſhall not ſell the ſame in any other place than the ſaid market-houſe; or in the ſaid town of Lewes, in any other place but at the public market-houſe of the ſaid town of Lewes, under penalty of forfeiting both by the buyer and ſeller, all ſuch proviſions ſo ſold or bought, or the value thereof, to be levied, together with coſts, by the Clerk of the Market of the ſaid towns reſpectively, by diſtreſs and ſale of the offender's goods and chattels reſpectively, by warrant under the hand and ſeal of any one Juſtice of

No proviſions to be bought or ſold but in the markets, except, &c.

Penalty.

(a) See an amendatory act hereto, chap. 124. a. 25 Geo. II. relating to the town of Dover only.

CHAP. XCIX. 15 Geo. II.

of the Peace of the reſpective county, and to be applied to the uſe of the poor of the ſame county.

Poor or unſound fleſh how to be diſpoſed of.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall preſume to bring or carry to the ſaid markets, or either of them, and ſell or offer to ſale any meat or fleſh that ſhall be poor, lean or carrion, or any other proviſion or proviſions not ſound and wholeſome; every perſon ſo offending ſhall forfeit the ſame, if too poor or lean for ſale, to the uſe of the priſoners in the common gaol of the reſpective county, or the poor; if unwholeſome or unſound, to be burnt, or thrown into ſome creek or river.

Butchering forbid within the limits of the markets.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons whatſoever, ſhall preſume to kill or ſlay any cattle, ſheep, calves, or hogs, within the limits of the ſaid ſquare or market-houſe or houſes, on penalty of forfeiting the ſum of Five Shillings for every ſuch offence, to be levied as aforeſaid, and applied to the uſe of the poor of the ſaid counties reſpectively.

Penalty on frauds in weight of butter, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons whatſoever, ſhall, by themſelves or others, either ſell or offer to ſale, any butter, cheeſe, tallow, or any ſort of proviſions, by any falſe weights, or for more weight than the ſame ſhall be found to be by trial of the Clerk of the reſpective market for the time being, upon complaint made, ſuch perſon or perſons ſhall, for every ſuch offence, forfeit ſuch butter, cheeſe, tallow, or proviſion ſo ſold or offered to ſale; and the Clerk of the ſaid market is hereby impowered and required to ſeize the ſame, to be applied to the uſe of the poor of the ſaid county.

Market days appointed.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That at all times hereafter every Wedneſday and Saturday in each week, and no other day or days whatſoever, ſhall be deemed and taken for the public and regular market-days of the ſaid towns of Dover and Lewes.

No fleſh to be ſold on Tueſdays or Fridays, except, &c.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons whatſoever, ſhall preſume to hawk or carry about the ſaid towns of Dover

Dover and Lewes, or to expoſe to ſale on the ſquare in the town of Dover, or in the market-houſe or market-houſes of the ſaid towns of Dover and Lewes, or either of them, any fleſh-meat on the Tueſdays or Fridays in each week, except in the months of June, July and Auguſt, on pain of forfeiting ſuch fleſh-meat, or the value thereof, to be recovered in like manner as other forfeitures are directed to be recovered by this act, and paid, the one moiety thereof to the ſaid Clerk, for the uſe of ſuch Clerk, the other moiety to the Treaſurer of the County, for the uſe of the poor of the ſaid county.

Bakers ſhall mark their bread;

SECT. 8. *And* for preventing frauds that may happen to be committed by public bakers of bread for ſale in the ſaid towns of Dover and Lewes, *Be it enacted by the authority aforeſaid*, That from and after the publication of this act, every baker or bakers of bread for ſale within the ſaid towns of Dover and Lewes, ſhall and are hereby directed and required to make or impreſs ſome mark, letter or name of ſuch baker on every ſuch bread as he or ſhe ſhall bake for ſale as aforeſaid, on penalty of paying for every ſuch neglect, the ſum of Five Shillings to the Clerk of the reſpective market aforeſaid for the time being.

penalty on neglect.

Sorts of bread to be baked.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That all ſoft or loaf-bread baked or to be baked for ſale within the ſaid counties of Kent and Suſſex, ſhall be either white, middling, or brown, and of no other ſort whatſoever: And that the Juſtices of the Court of Quarter-Seſſions for the ſaid counties reſpectively, ſhall and are hereby impowered and required, from time to time, at their Quarterly Seſſions of the Peace, to ſettle and appoint the ſize and weight of the ſeveral ſorts of bread which ſhall be baked for ſale in the ſaid towns of Dover and Lewes reſpectively: And all bakers in the ſaid towns ſhall conform themſelves, and make the bread by them baked for ſale, agreeable thereto, on pain of forfeiting, for every ſuch offence, all ſuch bread as upon trial of the Clerk of the Market ſhall be found to be of leſſer weight, to be by the ſaid Clerk ſeized for the uſe of the poor of the reſpective county, and Five Shillings to the ſaid Clerk, to be recovered as aforeſaid: And that no

Size and weight of bread ſhall be conformable to appointment made by the juſtices.

baker

CHAP. XCIX. 15 Geo. II.

baker ſhall, upon any pretence whatſoever, make any different or other ſorts of bread for ſale, but white, middling and brown, under the penalty of forfeiting the ſame, to be applied in manner aforeſaid.

Clerks of the market appointed,

SECT. 10. *And be it further enacted by the authority aforeſaid*, That Thomas Nixon, of the town of Dover aforeſaid, is hereby appointed and conſtituted Clerk of the Marker for the ſaid town of Dover; and Joſhua Fiſher, of the town of Lewes aforeſaid, is hereby appointed and conſtituted Clerk of the Market for the ſaid town of Lewes; who are hereby ſtrictly charged and commanded to put this act and every part thereof in execution in their reſpective towns,

their Power.

and impowered to receive, demand and recover all ſuch penalties, fines and forfeitures, as in this act are directed to be forfeited and paid; and to enter into all ſuch places and houſes where they ſhall ſuſpect any ſuch bread to be which ſhall not be made agreeable to the directions of this act; and to examine the weights, and try the ſame, for the purpoſes in this act before directed.

Clerks to keep fair accounts.

SECT. 11. *And* the ſaid Clerks reſpectively are herehereby directed and required to keep fair and juſt accounts of all fines, forfeitures and penalties that each of them ſhall receive by virtue of this act, and ſettle ſuch accounts once in every year with the Treaſurers of the reſpective counties, and pay to them all ſuch ſum and ſums of money as ſhall by them be received for the uſe of the poor.

In caſe of death, &c. juſtices may appoint new clerks.

SECT. 12. *And be it further enacted by the authority aforeſaid*, That upon the death, refuſal, removal, or inability of any of the Clerks of the ſaid markets of Dover and Lewes, appointed by virtue of this act, the Juſtices of the Court of Quarter Seſſions for the ſaid counties of Kent and Suſſex reſpectively, ſhall, and are hereby impowered and required to appoint, from time to time, ſo often as there ſhall be occaſion, ſome fit and proper perſon or perſons to ſerve in the Office of Clerk of the Market of the aforeſaid towns of Dover and Lewes reſpectively;

Qualification o Clerks of the Market.

which ſaid Clerks of the ſaid markets hereby appointed, or that ſhall hereafter be appointed by virtue of this act, before they or any of them ſhall preſume to

enter

enter upon their ſaid office or offices, or execute the truſt repoſed in them, ſhall firſt take an oath or affirmation before ſome Juſtice of the Peace of their reſpective county, *That they ſhall and will well and truly demean and behave themſelves in their reſpective Offices of Clerks of their Markets aforeſaid, and impartially diſcharge the truſt repoſed in them by virtue of this act.*

CHAP. C. a.

An ACT *to prevent ſtoned horſes under ſize from running at large within this government.* 15 Geo. II.

FORASMUCH as the generation and breed of good and ſtrong horſes within this government, is of great benefit and profit to the inhabitants thereof: Therefore, for the increaſe of ſuch,

SECTION 1. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Penſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the firſt day of June, in the year of our Lord One Thouſand Seven Hundred and Forty-two, between the firſt day of March and the firſt day of November, yearly, and every year, no ſtoned horſe or horſes above the age of two years, and not being of the height of thirteen hands and an half, to be meaſured from the loweſt part of the hoof of the fore-foot to the higheſt part of the wither, and each hand to contain four inches, ſhall by the owner or owners thereof be permitted to range or run at large in any of the woodlands or marſhes within this government. And if any ſuch horſe, above the age of two years, and under the height of thirteen hands and an half as aforeſaid, ſhall within the time above-limited be found at large as aforeſaid, it ſhall and may be lawful to and for any freeholder within this government, finding ſuch horſe,

No ſtoned horſe under thirteen hands and an half, ſhall be permitted to go at large.

CHAP. C. 15 Geo. II.

to take up the ſame, and him to bring to the next Juſtice of the Peace of the county wherein the ſaid horſe ſhall be taken up; which ſaid Juſtice ſhall cauſe ſuch horſe's age and height to be enquired into, or examined and meaſured, and upon finding him to be above the age of two years, and under the height by this act required, the ſaid juſtice ſhall and is hereby impowered and required to adminiſter an oath or affirmation to the perſon or perſons taking up ſuch horſe, that he or they did find the ſaid ſtoned horſe at large within the ſaid county, and that neither he or they, or any other perſon or perſons for him or them, or by his or their means, privity, or procurement, or to his or their knowledge, did drive or turn the ſaid horſe out of the incloſure of any perſon or perſons whatſoever, or did pull or lay down the fence or fences, or any part thereof, or open any gate or door of any perſon or perſons, with intent that the ſaid horſe might go out of ſuch incloſure: Whereupon the ſaid juſtice ſhall cauſe notice to be given to the owner of ſuch horſe, if known, requiring him immediately to appear before him; and upon appearance of ſuch owner, or ſome other proper perſon for him, the ſaid juſtice ſhall order the ſaid owner to pay unto the perſon or perſons taking up the ſaid horſe, the ſum of Twenty Shillings, to be recovered, together with coſts, in like manner as debts under Forty Shillings. And the ſaid juſtice ſhall cauſe the ſaid horſe to be delivered to ſuch owner or other proper perſon for him, and order him to have the ſaid horſe cut or gelded within the ſpace of three days then next following. And if the owner of ſuch horſe ſhall neglect or refuſe to cauſe the ſaid horſe to be gelded as aforeſaid, and the ſame horſe ſhall afterwards be found at large, and not gelded, upon complaint and due proof thereof made before any two Juſtices of the Peace of the ſaid county, the owner of the ſaid horſe ſhall forfeit the ſaid horſe, or pay the ſum of Five Pounds, to be recovered by diſtreſs and ſale of ſuch owner's goods and chattels, by warrant under the hands and ſeals of the ſaid juſtices, and paid, the one moiety thereof to the Treaſurer of the county, for the uſe of the poor of the ſaid county.

Penalty.

Farther penalty.

the

the other moiety to the informer; or the horſe forfeited ſhall be gelded and ſold as in this act after directed; and after payment of all neceſſary charges, the money ariſing by the ſale, ſhall be applied and paid as aforeſaid.

The owner not appearing, or not being known, the juſtice ſhall order ſuch horſe to be cut, &c.

SECT. 2. *And* if, upon notice given to the owner of any ſtoned horſe taken up, and found under ſize as aforeſaid, the owner ſhall refuſe or neglect to appear before the ſaid juſtice, or to ſend ſome proper perſon in his behalf or ſtead, or if the owner of any ſuch horſe ſhall not be known, then the ſaid juſtice ſhall order the taker-up of any ſuch horſe to lead or take him to ſome proper and ſkilful perſon, by the ſaid juſtice to be named, and the ſame horſe to cauſe to be cut or gelded at the riſque of the owner thereof, and the taker-up ſhall take into his care and keeping the ſaid horſe, until cured; for which cutting, keeping and ſervice, there ſhall be paid to the ſaid taker-up by the owner of ſuch horſe, or out of the money ariſing by the ſale thereof, the ſum of Ten Shillings, over and above the aforeſaid ſum of Twenty Shillings: And the ſaid taker-up ſhall put up in three of the moſt public places of the hundred wherein the ſaid horſe was taken up, advertiſements deſcribing the ſize, colour, age and marks of the ſaid horſe, and ſetting forth, that if the owner thereof ſhall not before the end of fifteen days then next following, come in, and prove his property, and pay the charges, the ſaid horſe will be ſold at public vendue. And in caſe no owner ſhall within the ſaid fifteen days claim the ſaid horſe, and pay charges as aforeſaid, then the ſaid horſe, being duly advertiſed as aforeſaid, ſhall, by order of the ſaid juſtice, be ſold at public vendue, by ſome Conſtable of the ſame hundred, and the money ariſing by the ſale ſhall be delivered to the ſaid juſtice, who out of the ſame ſhall pay to the taker-up his charges for taking up, cutting and keeping the ſaid horſe, and his own and the Conſtable's fees; and the overplus, if any be, ſhall remain in the hands of the ſaid juſtice, for the uſe of the owner of ſuch horſe, if within ſix months after ſuch ſale, he ſhall come in, and, to the ſatisfaction of ſuch juſtice, prove his or her property therein. And in caſe no owner ſhall, within

Advertiſements to be put up.

No claim being made in fifteen days, the horſe ſhall be ſold, &c.

CHAP. C. 15 Geo. II.

within the ſpace of ſix months aforeſaid, prove his or her property aforeſaid, the ſaid overplus money ſhall by the ſaid juſtice be paid to the Treaſurer of the county, for the uſe of the poor of the ſaid county; and the ſaid owner ſhall for ever after be foreclоſed and debarred from any title or claim thereto.

None but freeholders may claim the reward, &c.

SECT. 3. *And be it enacted*, That no perſon other than a freeholder within this government, ſhall be entitled to any reward for taking up any ſuch ſtoned horſe under ſize as aforeſaid.

Sales of horſes by virtue of this act, ſhall be good.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all and every ſale and ſales of any horſe and horſes hereafter to be made by virtue of this act, ſhall be good and available in law, to all intents and purpoſes whatſoever; and that the buyer and buyers of every ſuch horſe and horſes, ſhall, or lawfully may hold and retain the ſame horſe and horſes, and every of them, to his and their own proper uſe, as his and their own proper goods and chattels, without any lett, interruption, vexation, ſuit, or trouble of the former owner or owners of them, or any of them, or any other perſon or perſons whatſoever.

Repeal of a former law,

SECT. 5. *And be it further enacted by the authority aforeſaid*, That an act of General Aſſembly of this government, entituled, *A law preventing ſtoned horſes under the height of thirteen hands and an half, from running at large*, ſhall be, and the ſame is hereby repealed.

CHAP. CI. a.

15 Geo. II.

An ACT *to encourage the killing of wolves within this government.*

BE *it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid*

counties,

counties, in General Assembly met, and by the authority of the same, That if any person shall kill any wolf, and shall bring the head thereof to any Justice of the Peace of any of the counties of this government, and upon oath or affirmation declare that such wolf was killed within the county to which such justice doth or shall belong; every such person shall receive, for killing a grown wolf, the sum of Fifteen Shillings, and for killing a whelp, or puppy, the sum of Ten Shillings, to be paid by the Treasurer of the county out of the public money of the said county, raised, or to be raised as county levies are; and the said justice shall cause the ears of every such wolf or puppy to be cut off, and shall give unto such person a receipt and certificate to the said Treasurer, who is hereby directed and required to pay the said money to the person who killed such wolf, or his order.

2d. CHAP. CI. a. 15 Geo. II.

An ACT *for the better settling intestates estates.* Repealed 24 Geo. II. see after in chap. 119. a. sect. 14.——Note, this act passed in 16 Geo. II. and for which see the appendix.

CHAP. CII. a. 16 Geo. II.

An ACT *for raising county-rates and levies.*

WHEREAS it is necessary, yearly, and every year, to raise several sums of money for the defraying and paying the public charges of the respective counties of this government: Therefore, for the more easy and regular laying and raising the same,

SECTION 2. *BE it enacted by the honorable George Thomas, esq. with the King's royal approbation, Lieutenant Governor and Commander in Chief, under the honorable John Penn, Thomas Penn, and Richard Penn, esquires, true*

CHAP. CII. 16 Geo. II.

true and abſolute proprietaries of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That the freeholders and inhabitants of the reſpective counties of this government, who are legally qualified to elect and be elected Members of Aſſembly, ſhall yearly, and every year, on the firſt day of October, at the place appointed for making ſuch elections, by a majority of voices of the electors, as aforeſaid, for each hundred, chuſe one ſubſtantial freeholder for every hundred in the counties aforeſaid, to be the Aſſeſſor for the enſuing year; *(a)* and when ſuch aſſeſſor or aſſeſſors ſhall be ſo choſen, the Sheriff of the reſpective counties ſhall take down their names in writing, under the hands and ſeals of ſix or more of the freeholders of the reſpective counties where they ſhall be ſo choſen, and certify the ſame to the juſtices of their General Seſſions of the Peace in each of the counties next after ſuch election, which return ſhall be entered on record in the ſeſſion's minutes; and ſuch aſſeſſor or aſſeſſors being ſo choſen as aforeſaid, ſhall ſerve in ſaid office, under the penalty of Twenty Shillings, to be recovered by a warrant under the hand and ſeal of any one Juſtice of the Peace of the county, to be paid to the Treaſurer for the uſe of the poor of the county. And if any ſuch aſſeſſor or aſſeſſors ſo choſen as aforeſaid, ſhall happen to die, or remove out of this government, or be otherwiſe diſabled to ſerve in the ſaid office, the juſtices of the reſpective county-courts

Freeholders to chuſe Aſſeſſors yearly.

Penalty on Aſſeſſors not ſerving.

(a) See an act directing the choice of Inſpectors and Aſſeſſors, and for the amendment of this act for raiſing county rates and levies, chap. 187. a. paſſed November 1, 1766. Who are to be ballotted for annually on 15th September, unleſs that ſhall happen on Sunday, then on the day after, in each hundred at ſome convenient place therein to be appointed by the Collector of Public Taxes for the hundred, or in caſe of his diſability, refuſal, &c. by the Overſeers of the Poor thereof, &c. who with two freeholders are to preſide at ſuch election, firſt giving ten days previous notice thereof: And after to certify under their hands and ſeals the names of the perſons ſo choſen to the Sheriff of the county, &c. who is to return ſuch certificate into the office of the Clerk of the Peace within three days after the general election, &c.

By the ſupplementary act to the act for the better relief of the poor, chap. 249. b. ſect. 13. paſſed February 4, 1792, Conſtables are to perform and execute ſeveral duties of Overſeers of the Poor directed by ſeveral laws of the ſtate made previous to January 29, 1791, the time of paſſing the principal act, whereby that office was done away by a new ſubſtitution of perſons ſtiled "Truſtees of the Poor," &c.

courts ſhall ſo often as it ſhall ſo happen, nominate and appoint another fit perſon to ſerve in the ſaid office, until a new election ſhall be made in manner aforeſaid. But before any of the ſaid aſſeſſors ſo to be choſen or returned as aforeſaid, ſhall take upon themſelves the ſervice and duty by them to be performed and executed, under the directions of this act, they ſhall be qualified, by taking an oath or affirmation, to the effect following, viz.

Their qualification.

I A. B. will well and truly lay, or cauſe the rates and ſums of money by virtue of this act to be impoſed or raiſed, duly and equally to be aſſeſſed and laid, according to the beſt of my ſkill and knowledge; and herein I will ſpare no perſon for favour or affection, or grieve any for hatred or ill-will.

No new choice being made, the old Aſſeſſors ſhall continue, &c.

Which qualification may be adminiſtred by any Juſtice of the Peace of the reſpective counties, where ſuch aſſeſſor or aſſeſſors ſhall be choſen as aforeſaid. *(b)* And if the inhabitants of any of the ſaid counties neglect or refuſe to chuſe or elect ſuch aſſeſſor or aſſeſſors (after aſſeſſors ſhall be once choſen by virtue of this act) then and ſo often, and when it ſhall ſo happen, the aſſeſſor or aſſeſſors of the next preceding year ſhall continue to officiate in their reſpective ſtation as aſſeſſor or aſſeſſors, until a new election ſhall be made, purſuant to the direction of this act. *(c)*

Juſtices, eight Grand Jurymen, and Aſſeſſors, to meet and ſettle the public debts, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the Juſtices of the Peace of the reſpective counties within this government, or any three of them, at their reſpective courts to be held in the month of November yearly, and every year, for laying the levies, together with eight Grand Jury-men, or ſuch of them as will attend, and the aſſeſſors, or the majority of them, *(d)* ſhall meet at the court-houſes

(b) See "An act for the valuation of real and perſonal property within this ſtate," chap. 98. c. paſſed February 9, 1796 for another form of a qualification to be taken by an aſſeſſor by and before a commiſſioner of taxes, a new body under the ſaid act.

(c) See in ſaid act, chap. 98. c. ſect. 12. further proviſion for compelling aſſeſſors to ſerve as ſuch, and do certain duties aſſigned to them in the ſaid act, and alſo for ſupplying vacancies.

(d) See "An act to amend the laws of this ſtate for raiſing county rates and levies," chap. 18. c. paſſed June 14, 1793, wherein the conſtitution of this Levy Court and Court of Appeal, in ſect. 8. of this original act, is totally changed, and the powers

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houſes within the ſaid counties, on the next Tueſday following their reſpective county courts held in the month aforeſaid, and ſhall then and there proceed to calculate and ſettle the public debts and charges of the reſpective counties, allowing all juſt debts and demands which now are or hereafter ſhall be chargeable upon the ſaid reſpective counties, and ſhall ſettle and adjuſt the ſum and ſums of money, which ought of neceſſity to be raiſed yearly, to defray the charges of building and repairing court-houſes, priſons, work-houſes, or for deſtroying wolves, crows and black-birds, with ſuch other uſes as may redound to the public ſervice and benefit of the ſaid counties reſpectively; and ſhall alſo aſcertain and ſet down ſuch competent ſum and ſums of money, as ſhall be yearly applied toward every of the ſaid duties and ſervices; together with ſuch ſum or ſums as may be needful to make good deficiencies in county-rates aſſeſſed and not yet collected, and to enforce the collection thereof as need may require.

Liſts of taxables, &c. to be brought in every Auguſt Seſſions.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That the Clerk of the Peace in each county, ſhall and is hereby required, at every Auguſt ſeſſions to iſſue forth precepts directed to the Conſtables of every hundred or diſtrict, requiring them to bring to the ſaid juſtices at the November ſeſſions next after the date of ſuch precepts, fair and true liſts or accounts in writing, upon their oaths or affirmation, of the names and ſurnames of all and every the taxable perſons reſiding or dwelling within the limits of thoſe hundreds or diſtricts with which they ſhall be charged, and the names of all the freemen, inmates, hired ſervants, and all other perſons reſiding or ſojourning in every of their hundreds or diſtricts aforeſaid; *(e)* upon pain of forfeiting any ſum not exceeding five Pounds, at the diſcretion of the juſtices aforeſaid, to be

Penalty on neglect.

thereof veſted in Commiſſioners to be choſen, as to numbers and reſidence as ſpecially preſcribed in ſaid chap. 18. c. at the ſame time and place, and in the ſame manner that Senators and Repreſentatives for the counties are.

(e) See the act beforementioned, chap. 187. a. ſect. 9. for further proviſion as to the contents of ſuch liſts of taxables and for procuring returns thereof. But ſee ſaid chap. 98. c. from ſects. 4 to 10 inclusive, where other proviſion is made.

be levied by diſtreſs and ſale of the delinquent's goods and chattels, to be paid to the Treaſurer of the county, for the uſe of the poor of the county; and for want of ſuch goods or chattels, then to take the body of ſuch offender or offenders in execution, to be committed to the county gaol, there to remain until debt and coſt are fully paid, or be otherwiſe legally diſcharged. And every of the ſaid Conſtables ſhall have and receive of the Treaſurer of the reſpective counties for the time being, the ſum of Five Shillings each, for their care and trouble in taking and returning the ſaid liſts in manner aforeſaid.

Aſſeſſors to aſſeſs themſelves and others impartially.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That after ſettling and allowing all juſt debts and demands chargeable upon the reſpective counties, and adjuſting and ſettling the ſum and ſums of money of neceſſity to be raiſed as aforeſaid, to be allowed by the Juſtices, Grand Jurymen and Aſſeſſors aforeſaid, it ſhall and may be lawful for the Aſſeſſors of the reſpective counties, and they are hereby required to meet together, and by the Conſtables returns, or any other lawful way or means, inform themſelves what perſons and eſtates in their reſpective counties are rateable by virtue of this act; and ſhall forthwith equally and impartially aſſeſs themſelves and all others as aforeſaid (exempting out of ſuch aſſeſſments all unſettled tracts or parcels of land, and having due regard to ſuch as are poor, and have a charge of children, the poorer ſort of ſuch not to be rated under Eight Pounds) and no ſingle man, who at any time of aſſeſſment is under twenty-one years of age, or hath not been out of his ſervitude or apprenticeſhip ſix months, ſhall be rated by this act; and as to thoſe ſingle men who have no viſible eſtates, they ſhall not be rated under Twelve Pounds, nor above Twenty-four Pounds. *(f)*

SECT. 6. *And be it further enacted by the authority aforeſaid*,

(f) This ſect. 5, added to and explained in the aforeſaid chap. 187. a. ſects. 10, 11. But ſee ſaid chap. 98. c. throughout, for an entire new arrangement of duties to be performed by the Aſſeſſors, as alſo by the ſix Commiſſioners of Tax to be appointed in each county under that act.

See alſo ſect. 32. thereof, that the Commiſſioners of the Levy Court and Court of Appeal may, at their diſcretion, ſtrike any perſon's name off the Levy Liſt.

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aforeſaid, That the ſaid reſpective ſums of money, with the names of the perſons to whom payable, and the particular uſes to which they are appropriated, ſhall be entered on the minutes kept by the Clerk of the Peace of each reſpective county; who is to officiate as Clerk of the Levy Court, which ſaid Clerk is to tranſcribe, from ſaid minutes, fair and true duplicates of all the proceedings of ſaid court, to be delivered to the Treaſurer of each reſpective county for the time being; who is hereby required to provide good and ſufficient books, at his own coſt and charge, where he ſhall make entries of the ſaid duplicates accordingly.

Fair duplicates to be delivered to the Treaſurers.

Copies of aſſeſſments to be publiſhed.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That after the making ſuch rates and aſſeſſments as aforeſaid, the Clerk of the Peace in each reſpective county ſhall ſet up, or cauſe to be ſet up and publiſhed in the moſt public places of the reſpective hundreds of the ſaid counties, in writing under his hand, a true copy of ſuch rates and aſſeſſments as aforeſaid, together with notice of the day appointed by this act for holding the Court of Appeal; and for every neglect or refuſal to forfeit and pay the ſum of Twenty Shillings, to be paid to the Treaſurer for the time being, for the uſe of the poor, to be recovered by warrant under the hand and ſeal of any Juſtice of the Peace of ſaid county, by diſtreſs and ſale of the offender's goods and chattels.

Penalty on Neglect.

Juſtices, &c. to meet and hear complaints, &c.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That after the Juſtices, Grand Jurymen and Aſſeſſors, or a majority of them, ſhall have made ſuch rates, calculations and aſſeſſments as aforeſaid, the ſaid juſtices ſhall appoint that day four weeks from the time of their meeting in each of the reſpective counties to meet again *(g)* at the ſame place to hear the complaints, and redreſs the grievances of ſuch perſon or perſons as ſhall be unequally or over-rated,

(g) See after in chap. 137. a. ſect. 4. See ſect. 98, of the ſaid act chap. 28. e. directing the Commiſſioners of the Levy Court and Court of Appeal to meet on the firſt Tueſday in January in each year, for the purpoſe of remedying the complaints of all who may be unequally or over-rated.

rated, and, upon juſt cauſe ſhewed, they are hereby impowered to add or diminiſh to ſuch perſon's rate or aſſeſſment as to them ſhall ſeem juſt and reaſonable; and they may then and there call before them ſuch perſon or perſons as they find are omitted in the ſaid aſſeſſment, and rectify ſuch omiſſion or omiſſions; and if the perſon or perſons ſo omitted refuſe or neglect to appear, to give an account of his, her, or their eſtate or eſtates, he, ſhe, or they ſo offending, ſhall forfeit and pay any ſum under Twenty Shillings, at the diſcretion of the court, to be paid to the Treaſurer for the uſe of the poor of the county, and on default thereof, to be recovered by a warrant under the hand and ſeal of any one Juſtice of the Peace of the ſaid county, by diſtreſs and ſale of the offender's goods or chattels. *(b)*

Omiſſions to be rectified.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That on the day the Juſtices, Grand Jurymen and Aſſeſſors do meet to hold their Court of Appeal, as before is directed, in each of the reſpective counties aforeſaid, or ſo many of them as will be preſent, they ſhall and are hereby required to nominate and appoint one ſubſtantial freeholder at leaſt in every hundred, to be Collector of the public tax or aſſeſſment from time to time, and immediately after ſuch ſecond meeting or days of appeal as aforeſaid, ſhall cauſe duplicates of the ſaid aſſeſſments of each hundred to be tranſcribed from the Records of the Court by the Clerk, and by him delivered to the Collector of each reſpective hundred, with a warrant from the juſtices aforeſaid, or any two of them, impowering ſuch Collector, in his proper diſtrict, to demand and receive of the perſons aſſeſſed, the reſpective ſums of money wherewith they ſhall ſtand charged in his liſt or duplicate as aforeſaid. And if any perſon or perſons ſo rated or aſſeſſed by virtue of this act, ſhall refuſe or neglect to pay the ſum or ſums ſo aſſeſſed, or any part thereof, by the ſpace of ten days after demand made, ſuch perſon or perſons

Collectors to be appointed by the Commiſſioners of this court. See note (d) at ſect. 3. Ante.

(b) See in ſection 20, of the ſame act, chap. 98. c. how perſons omitted by the Aſſeſſors may be rated by the Commiſſioners of Tax.

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perſons being a freeholder, it ſhall and may be lawful for the ſaid Collectors reſpectively, to levy by diſtreſs and ſale of the goods and chattels of the perſon or perſons ſo neglecting or refuſing to pay as aforeſaid, the ſaid ſeveral ſums of money that the ſaid perſon or perſons ſtand chargeable with, and to make ſale thereof, rendering the overplus (if any be) to the owner or owners thereof, after all reaſonable charges be deducted; but if no diſtreſs can be found by the reſpective Collectors, and the party aſſeſſed refuſe or neglect to ſhew goods or chattels of his own forthwith to be levied upon to ſatisfy ſuch aſſeſſment, with reaſonable charges, then ſuch Collector ſhall take the body of every ſuch perſon or perſons ſo neglecting or refuſing to pay as aforeſaid, and bring him to the county gaol, and deliver him to the Sheriff, or keeper of the ſaid gaol, who is hereby required to receive and detain him in ſafe cuſtody, until payment, with coſts, be made.

Their power.

Collectors to render accounts.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That the ſaid Collector ſhall once in ten months at leaſt, from ſuch day or court of appeal as aforeſaid, render a juſt and true account of, and pay unto the reſpective County Treaſurer for the time being, all ſuch ſums of money as they or any of them ſhall have then received, and ſhall pay all and every the ſums of money aforeſaid in their reſpective duplicate, within the ſpace of eleven months after ſuch day of appeal as aforeſaid; and the Treaſurer's receipt to the Collectors ſhall be a ſufficient diſcharge from ſuch collection or aſſeſſment. And if any of the ſaid Collectors refuſe or neglect to pay the ſum or ſums of money, or any part thereof, that they ſhall be accountable for as aforeſaid, according to the directions of this act (retaining ſuch ſum or ſums as are herein after allowed for collecting and paying the ſame) then ſuch delinquent Collector ſhall be fined by the reſpective county court, in any ſum not exceeding Five Pounds; and the ſaid county court ſhall appoint another Collector or Collectors as the caſe may

Penalty on delinquents.

may require, to act in his or their ſtead until the next Court of Appeal. *(i)*

Collectors fees.

SECT. 11. *And be it further enacted by the authority aforeſaid*, That the fees of the reſpective Collectors within this government, ſhall be as followeth, *viz.* For collecting and paying to the Treaſurer any ſum or ſums of money by him or them ſo collected and paid as aforeſaid, at the rate of ten per cent. and ſo in proportion for any greater or leſſer ſum or ſums of money; and for taking and ſelling the goods or chattels by virtue of their warrant in execution, or making diſtreſs as aforeſaid, ſhall be Three Shillings and Six-pence, and no more; and for taking the body of any perſon, and delivering him to the Sheriff or Gaoler as aforeſaid, ſhall be Four Shillings, and no more, any law, cuſtom or uſage to the contrary notwithſtanding.

County Treaſurer to give bond.

SECT. 12. *And be it further enacted by the authority aforeſaid*, That the reſpective County Treaſurers *(k)* for the time being, or any others to be choſen by virtue of this act, before they enter upon their reſpective offices, according to the directions of this act, ſhall give bond to the Juſtices of the Court of Quarter Seſſions, in the name of the Governor for the time being, with one or more ſufficient ſureties, in the ſum of Five Hundred Pounds, conditioned for the true execution of their reſpective offices, and due obſervation of this act; *(l)* which bond ſhall be immediately recorded by the Clerk of the Peace, in the minutes of the aforeſaid court: And in caſe of death, or removal of any of the ſaid Treaſurers, then the Juſtices of the Peace of the proper counties for the time being, or the major part of them, ſhall appoint

Vacancies how to be ſupplied.

(i) That Collectors of the State Tax directed by annual acts to be raiſed for the ſupport of government are now by ſpecial proviſion therein to be appointed by, and accountable to the State Treaſurer.

(k) A good and ſubſtantial freeholder to be appointed Treaſurer at the Court of Appeals in each county, and to continue in office three years, giving ſecurity, &c. for which ſee chap. 137. a. 25 Geo. II.

(l) See ſaid chap. 98. c. ſect. 27. That ſuch Treaſurer is to give bond with one or more ſufficient ſureties in the name of the State of Delaware, to be approved of by the Commiſſioners of the Levy Court and Court of Appeals in the ſum of Six Thouſand Dollars, &c.

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appoint others to ſupply the places of ſuch as ſhall ſo die or be removed from time to time; which ſaid Treaſurer ſhall give ſecurity in manner aforeſaid, and ſhall keep a diſtinct book in each county, containing a particular account of all the rates and aſſeſſments made or to be made as aforeſaid, as alſo of all diſburſements and payments made by order of the Juſtices and Grand Jurymen, or other lawful authority. And the Treaſurers ſhall be allowed for their trouble, in receiving and paying all ſuch ſums of money as ſhall come into their hands reſpectively, by virtue of this act (or any other lawful authority) the ſum of Four Pounds for every Hundred Pounds, and ſo in proportion for any greater or leſſer ſums of money, to be allowed him at ſettling his accounts, as is hereafter directed. And where any County Treaſurers ſhall be removed from their office of Treaſurer, they ſhall deliver up to his or their ſucceſſor or ſucceſſors all the books belonging to or concerning ſuch reſpective county or counties where he or they acted, whole, intire and undefaced; and upon the death of any County Treaſurer, his executors or adminiſtrators ſhall deliver up in like manner, all the books and papers relating to the public accounts of the ſaid office, to the ſucceeding Treaſurer or Treaſurers.

Treaſurer's allowances, &c.

Perſons to be appointed to ſettle Treaſurers accounts, &c.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That the Juſtices, Grand Jurymen and Aſſeſſors, at their reſpective courts, to be held in the month of November, yearly, and every year, ſhall nominate and appoint out of their own number, three fit perſons to ſettle accounts with the Treaſurer, who is hereby required to lay before them the true and juſt ſtate of all the accounts relating to the public, in his hands; which three perſons ſhall proceed, or any two of them, to adjuſt and ſettle the ſaid accounts, and make their report to their next Court of Appeal after their appointment as aforeſaid; which ſettlement, when ſo made, ſhall be ſigned or ſubſcribed by the parties as aforeſaid, and then received and filed among the papers of the ſaid court.

Alowance to Juſtices, Grand-Jurymen and Aſſeſſors.

SECT. 14. *And be it further enacted by the authority aforeſaid*, That the Juſtices, Grand Jurymen and Aſſeſſors of the ſeveral counties within this government,

ſhall

ſhall be allowed and paid for their trouble, attendance and expenſes in executing and performing what is required of them in this act, the ſeveral ſums of money following, *viz.* To the Juſtices, Grand Jurymen and Aſſeſſors of the county of New-Caſtle, the ſum of Eighteen Pounds, and no more. And to the Juſtices, Grand Jurymen and Aſſeſſors of the county of Kent, the ſum of Fourteen Pounds, and no more. And to the Juſtices, Grand Jurymen and Aſſeſſors of the county of Suſſex, the ſum of Twelve Pounds, and no more. *(m)* And to the reſpective Clerks of the Peace of the ſaid counties, for their pains in officiating as Clerks of the Levy Court, and for writing duplicates, warrants and precepts as aforeſaid, relating to the premiſes, ſuch fees as the aforeſaid Juſtices, Grand Jurymen and Aſſeſſors ſhall from time to time think proper to allow.

Collectors to give bond, &c.

SECT. 15. *And be it further enacted by the authority aforeſaid*, That the ſeveral Collectors of the aforeſaid counties reſpectively, ſhall each of them, before he enter upon his office, give bond to the Juſtices of the Court of Quarter Seſſions, with ſuch ſecurity as ſhall be required, in the name of the Treaſurer of each reſpective county, for the faithful performance of the truſt by this act in him repoſed.

Repeal of former laws.

SECT. 16. *And be it further enacted by the authority aforeſaid*, That all the laws or acts of Aſſembly heretofore made in this government for the raiſing county rates and levies, and every matter, clauſe and thing therein contained, ſhall be, and are hereby declared to be repealed, and made null and void; any thing in the ſaid acts, or any of them, contained to the contrary notwithſtanding.

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(m) See the act of June 19, 1793, chap. 18. c. ſect. 7. a daily allowance preſcribed for the Commiſſioners of the Levy Court and Court of Appeal, and Aſſeſſors attending there.

See alſo ſection 23, of chap. 98. c. as to the compenſation to be made to the Commiſſioners of Tax, and Aſſeſſors for their trouble and expenſe in diſcharging the duties of their reſpective offices.

CHAP. CIII.

CHAP. CIII. a.

16 Geo. II. *An* ACT *for regulating and eſtabliſhing fees.* Repealed and ſupplied by an act, paſſed March 24, 1770. chap. 294. a.

CHAP. CIV. a.

17 Geo. II. *An* ACT *for the more eaſy and ſpeedy recovery of ſmall debts.* Temporary and expired, but occaſionally revived at different periods with ſome alterations, and finally re-enacted Feb. 4, 1792, which ſee in chap. 250. b.

CHAP. V. a.

17 Geo. II. *An* ACT *for reprinting, exchanging, and re-emitting all the bills of credit, and for ſtriking Six Thouſand and One Hundred Pounds, &c. to be emitted on loan.*

CHAP. CVI. a.

17 Geo. II. *An* ACT *for the better relief of the poor of the county of New-Caſtle.* This and all other acts made for the relief of the poor, repealed in ſect. 31. of chap. 225. a. paſſed March 29, 1775.

CHAP.

CHAP. CVII. a.

CHAP. CVII.

17 Geo. II.

An ACT *to impower executors and adminiſtrators within this government, by leave of court, to convey lands contracted for with their decedents.*

Preamble.

WHEREAS it frequently happens that perſons within this government ſell lands, and by bond or other writings obligatory under their hands and ſeals, in their life-time duly executed, oblige themſelves and their heirs to convey the ſame, and die before they have conveyed the lands ſo contracted for, ſometimes inteſtate, and ſometimes without making ſufficient proviſion by their laſt wills or teſtaments, for diſcharging ſuch obligation or contract, by which means the purchaſer or purchaſers may be without the full uſe or benefit of his, her, or their purchaſe or purchaſes, for many years, when the heir or heirs are in his or their minority; whence many inconveniencies already have, and hereafter may ariſe, both to the purchaſers, and to the eſtates of the deceaſed, for want of ſome proper proviſion for fulfilling their mutual contracts. For remedying whereof for the future, and for preventing the coſts and damages which may accrue to the eſtate of the deceaſed, for want of ſuch contracts being complied with,

SECTION 2. *BE it enacted by the honorable George Thomas, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable John Penn, Thomas Penn, and Richard Penn, eſquires, true and abſolute proprietaries of the counties and province aforeſaid, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act, any perſon or perſons whatſoever, having any bond or other writing, under hand and ſeal duly witneſſed, whereby any deceaſed perſon or perſons hath or have obliged him, her, or themſelves, or their heirs, to convey any land or lands, which has not been complied with in

Bond to convey land, muſt be proved, &c.

CHAP. CVII. 17 Geo. II.

the life-time of the deceaſed, ſuch perſon or perſons having any ſuch bond or writing in poſſeſſion, whether in his, her, or their own right, or as Attorney, Agent, Truſtee or Guardian to any other perſon or perſons whatſoever, ſhall, before he, ſhe, or they, bring any ſuit againſt any executor or executrix, adminiſtrator or adminiſtratrix, procure the ſaid bond or writing to be proved in open Court of Common Pleas, in the county where the ſaid lands lie, in the ſame manner as deeds executed by deceaſed perſons, and not acknowledged in their life-time, are directed to be proved, *(a)* which probate the Clerk of the ſaid Court ſhall certify under his hand and ſeal of the ſaid county, and when ſo certified and recorded in the Rolls Office, ſhall be ſhewn to the executor or executrix, adminiſtrator or adminiſtratrix concerned, who ſhall then be at liberty to prefer a petition to the ſaid court, praying leave to execute a deed for ſuch lands, in diſcharge of ſuch recorded bond, or other ſealed writing as aforeſaid; whereupon the ſaid court ſhall, and are hereby authoriſed and required, as often as any ſuch petition ſhall be to them preferred, to give an order for the ſaid executor or executrix, adminiſtrator or adminiſtratrix, to execute and acknowledge in open court a deed or conveyance of and for the ſaid land or lands, according to the tenor and true intent and meaning of the reſpective writing or writings ſo proved and recorded as aforeſaid.

Probate to be certified, &c.

Order to iſſue for conveyance, &c.

Sect. 3. *Provided always*, That the conſideration money, if any ſhall appear to be due for the ſaid lands, ſhall be firſt paid.

Conſideration money to be firſt paid.

Sect. 4. *And be it further enacted by the authority aforeſaid*, That all deeds and conveyances executed by virtue of, and in purſuance of this act, ſhall be as good and available in law and equity, and as binding on the eſtate of the deceaſed, as the ſame might or could have been if executed by the deceaſed in his, her, or their life-time.

Such conveyances to be valid, &c.

Sect. 5. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall bring any

(a) See before chap. 83. a. ſect. 2, 15 George II.

any ſuit in any court of this government, for non-performance of any ſuch writings as aforeſaid, without firſt proving, recording, and acquainting the defendant thereof, according to the direction of this act, ſuch perſon or perſons ſhall not recover any coſts in ſuch ſuit, any law, cuſtom or uſage to the contrary notwithſtanding.

Suits brought contrary to the direction of this act, ſhall not recover coſts.

SECT. 6. *And* that any executor or executrix, adminiſtrator or adminiſtratrix, who ſhall ſuffer him, her, or themſelves, to be ſued in any ſuch caſe or caſes, after due proceedings and notice given him, her, or them, according to the direction of this act, ſhall pay the coſts of ſuch ſuit, without burthening the reſpective eſtate therewith, except he, ſhe, or they, ſhall ſhew good reaſon for the ſame to be allowed of by the Orphans Court within the reſpective counties of this government.

Executor, &c. ſuffering ſuit, to pay coſts, unleſs, &c.

CHAP. CVIII. a.

An ACT *for the enabling religious ſocieties of Proteſtants within this government, to purchaſe lands for burying-grounds, churches, houſes for worſhip, ſchools, &c. (a)*

17 George II.

WHEREAS ſundry religious ſocieties of people within this government, profeſſing the Proteſtant religion, have, at their own reſpective coſts and charges, purchaſed ſmall pieces of land within this government, and thereon have erected churches, and other houſes of religious worſhip, ſchool-houſes, and incloſed part of the ſame lands for burying-grounds; *And whereas* the ſaid lands were purchaſed and paid for by the ſaid reſpective ſocieties in the name or names of perſons, at that time being of, or profeſſing themſelves to be of the ſame religious perſuaſion with the ſocieties who made uſe of the names of

Preamble.

(a) See an act paſſed February 3, 1787. chap. 144. b. making further proviſion in favour of the religious of all denominations in this ſtate, as to appointment of Truſtees and incorporation to take care of the temporalities of their reſpective congregations.

CHAP. CVIII. 17 Geo. II.

of the ſaid perſons as Truſtees for and in behalf of the ſaid ſocieties; *And whereas* ſome of the ſaid Truſtees, or their heirs, having afterwards changed their opinions, and joined themſelves to other religious ſocieties, of a different perſuaſion from the people by whom the ſaid perſons were at firſt intruſted, and, upon pretext of their having the fee-ſimple of the lands ſo purchaſed in their names veſted in them, have, contrary to the true intent and meaning of the firſt grant, or gift, attempted (by granting away the ſaid lands, houſes of religious worſhip, and burying-grounds) to deprive the ſociety of people in poſſeſſion of the ſame, of the right and uſe of the ſaid houſes of worſhip and burying-grounds, to the great diſquiet and uneaſineſs of many of the good people of this government; and others, being intruſted in the like manner, may hereafter do the ſame. For remedy whereof, and for the better ſecuring the ſeveral religious ſocieties in the quiet and peaceable poſſeſſion of their churches, houſes of worſhip, ſchool-houſes, alms-houſes, and burying-grounds within this government,

Grants to Truſtees of religious ſocieties, &c. declared to be for the uſe of ſuch ſocieties, &c.

SECTION 2. *BE it enacted by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable John Penn, Thomas Penn, and Richard Penn, eſquires, true and abſolute proprietaries of the counties and province aforeſaid, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That all gifts, grants, or bargains and ſales, made of lands or tenements within this government, to any perſon or perſons in truſt for ſocieties of proteſtant churches, houſes of religious worſhip, ſchools, alms-houſes, and for burying-grounds, or for any of them, ſhall be, and are hereby ratified and confirmed to the perſon or perſons to whom the ſame were ſold, given, or granted, their heirs and aſſigns in truſt, and not otherwiſe, but for the uſe of the ſame religious ſocieties for whom they were at firſt ſo ſold, given, granted, or purchaſed, according to the true intent and meaning of ſuch gifts, grants, or bargains and ſales;

and

and that every ſale, gift, grant, or deviſe of any ſuch Truſtee or Truſtees, or any perſon or perſons, in whoſe name or names the ſaid lands for erecting churches, houſes of religious worſhip, ſchools, alms-houſes, or burying-grounds, within this government, were purchaſed, taken, or accepted, or the heirs or aſſigns of ſuch Truſtees ſhall be, and are hereby declared to be for the ſole uſe, benefit and behoof of the ſaid reſpective ſocieties, who have been in the peaceable poſſeſſion of the ſame, for the ſpace of ſeven years next before the firſt day of April, in the year of our Lord One Thouſand Seven Hundred and Forty-four, or for whoſe uſe the ſame were at firſt given, granted, or deviſed, and no other.

Religious ſocieties may hold lands, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for any religious ſocieties of Proteſtants within this government, to purchaſe, take, and receive by gift, grant, or otherwiſe, for burying-grounds, erecting churches, houſes of religious worſhip, ſchools, and alms-houſes, for any eſtate whatſoever, and to hold the ſame, for the uſes aforeſaid, of the lord of the fee by the accuſtomed rents.

but only for the uſes in this act mentioned.

SECT. 4. *Provided always, and be it further enacted by the authority aforeſaid*, That nothing in this act contained ſhall be deemed, taken, or conſtrued, to enable any of the ſaid religious ſocieties of people, or any perſon or perſons whatſoever, in truſt for them, or to their uſe, to purchaſe, take, or receive, any lands or tenements by gift, grant, or otherwiſe, for or towards the maintenance or ſupport of the ſaid churches, houſes of worſhip, ſchools, or alms-houſes, or the people belonging to the ſame, or for any other uſe or purpoſe, ſave for the uſes in this act before mentioned. *(b)*

SECT. 5. *Provided alſo*, That this act, nor any thing therein contained, ſhall be deemed or conſtrued to impeach the juſt right or title which any perſon or perſons may have to any of the lands or tenements herein before mentioned, ſo that they proſecute ſuch their

(b) See ſect. 5. of chap. 144. b.

CHAP. CVIII. 17 Geo. II.

their right or claim within the ſpace of three years next after the publication of this act.

CHAP. CIX. a.

20 Geo. II. *An* ACT *for enabling the Truſtees of the reſpective Loan-Offices within this government, to lend Two Hundred and Thirty Pounds for the uſes in this act mentioned.*

CHAP. CX. a.

20 Geo. II. *An* ACT *for reprinting, exchanging, and re-emitting Twenty Thouſand Pounds of the bills of credit of this government.*

CHAP. CXI. a.

1746. *An* ACT *for repairing and amending the highways, roads, cauſeways, and bridges, within the hundred of New-Caſtle.* Repealed and ſupplied by a general act for New-Caſtle county, paſſed November 2, 1762, for which ſee chap. 180. a.

CHAP. CXII. a.

20 Geo. II. *An* ACT *concerning rangers and ſtrays.* Repealed and ſupplied by an act paſſed March 24, 1770, chap. 203. a. which being temporary was ſuffered to expire, but after, February 2, 1786, re-enacted as in chap. 130. b.

CHAP.

CHAP. CXIII. a.

CHAP. CXIII.
20 Geo. II.

An ACT *to prevent ſwine running at large without rings and yokes, in certain parts of New-Caſtle county, within this government.(a)*

WHEREAS the ſeveral acts of Aſſembly of this government, for the preventing of ſwine running at large in certain parts of New-Caſtle county, within this government, are not found to anſwer all the good ends deſigned thereby: For remedy whereof, Preamble.

SECT. 2. *BE it enacted, by the honorable George Thomas, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the firſt day of April, which ſhall be in the year of our Lord One Thouſand Seven Hundred and Forty-ſeven, no ſwine ſhall be allowed to run at large (unleſs ſufficiently ringed, to prevent them from rooting, and yoked, to prevent them from creeping or breaking through fences) on any of the improved lands, meadows, or marſhes, of the inhabitants in the county aforeſaid (Pencader and Appoquinimink hundreds only excepted) And if at any time after the ſaid firſt day of April, in the year of our Lord One Thouſand Seven Hundred and Forty-ſeven, any ſwine ſhall be found at large, and treſpaſſing upon the improved lands, meadows, or marſhes, of any inhabitant within the above-mentioned limits, not, as aforeſaid, ſufficiently ringed and yoked (except upon the lands, meadows, or marſhes of the owner or owners of the ſaid ſwine) it ſhall and may be lawful for any perſon, being a freeholder, or poſſeſſing ſome tenement or farm, within the ſaid limits, of the yearly value of Forty Shillings, No ſwine to run at large in New-Caſtle county, except, &c.

(a) This act extended to certain parts of Appoquinimink hundred, in chap. 192. a, paſſed June 16, 1769; and after to Pencader hundred, in chap. 226. a. paſſed March 29, 1775.

CHAP. CXIII.

20 Geo. II.

lings, to take up or kill any ſuch ſwine found upon his or their improved lands or farms, and ſhall immediately give notice to the owner or owners thereof, who ſhall be obliged to make good all damages done by ſuch treſpaſſing ſwine, according to the valuation of two creditable men of the vicinage, to be appointed and qualified by the next Juſtice of the Peace of the ſame county for that purpoſe; but in caſe the owner or owners of ſuch ſwine ſhould neglect or refuſe to pay the damages valued as aforeſaid, then it ſhall and may be lawful for any Juſtice of the Peace of the county aforeſaid, who is hereby required, upon complaint made to him by the perſon or perſons ſo treſpaſſed upon in any manner aforeſaid, to grant a warrant under his hand and ſeal, in order to recover the valuation of ſuch damages as aforeſaid, to be levied by diſtreſs and ſale of the offender's goods and chattels, together with coſts accrued thereon; or if the owner or owners of the ſaid treſpaſſing ſwine be not known, ſhall inform the next Juſtice of the Peace of the ſame county, whereupon the ſaid juſtice ſhall cauſe the ſame immediately to be appraiſed by two creditable men as aforeſaid, upon their oaths or affirmations, and ſold to the higheſt bidder, and, after deduction of charges and damages, the reſidue of the money ariſing by ſuch ſale, ſhall be paid to the ſaid juſtice, for the uſe of ſuch owner or owners, if within ſix months next after ſuch ſale he or ſhe ſhall claim the ſame, and (to the ſatisfaction of ſuch juſtice) prove his or her right thereto; and the ſaid juſtice ſhall cauſe an advertiſement to be ſet up in ſome public place of the neighbourhood, ſetting forth the number and marks of all ſuch ſwine, and the time of their being ſo taken up or killed as aforeſaid. But in caſe no ſuch owner ſhall within the ſaid ſix months appear, and make out ſuch his or her right as aforeſaid, then the ſaid reſidue ſhall by the ſaid juſtice be paid for the uſe of the poor, to the Overſeer or Overſeers in the hundred where the treſpaſs is committed, and the ſaid owner ſhall for ever after be foreclоſed and debarred from any title or claim thereto.

Damages by treſpaſſing ſwine, to be made good;

how to be recovered.

Advertiſement to be made.

Swine not to be carried out of the limits, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons inhabiting within the

the limits aforeſaid (except as before excepted) ſhall be allowed or permitted to drive or carry any ſwine out of the limits aforeſaid, which were raiſed or bred therein, with intent that the ſaid ſwine may run at large without rings and yokes in any other parts of the ſaid county of New-Caſtle, under the penalty in this act before provided againſt ſwine running at large within the ſaid limits, to be diſpoſed of in manner aforeſaid, unleſs the perſon or perſons ſo driving or carrying any ſuch ſwine, ſhall at the time of his or their doing thereof, be owner or owners, or poſſeſſor or poſſeſſors of land near the place whereunto ſuch ſwine ſhall be ſo driven or carried, and whereupon he or they ſhall have a tenant or tenants, ſervant or ſervants, ſlave or ſlaves, reſiding or inhabiting. 20 Geo. II.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all other acts of General Aſſembly of this government, heretofore made, relating to ſwine running at large without rings and yokes in certain parts of New-Caſtle county, within this government, be, and are hereby repealed, made null and void, any thing in the ſaid acts contained to the contrary in any wiſe notwithſtanding. Former acts repealed.

Paſſed October 31, 1746.

CHAP. CXIV. a.

A Supplement to an act, entituled, An Act impoſing a duty on perſons convicted of heinous crimes, *&c. (a)* 22 Geo. II.

WHEREAS it is found by experience that the ſaid act is deficient in ſeveral parts, and doth not anſwer the good purpoſes for which the ſame was intended; *And whereas* there are no directions for the ſeveral Collectors mentioned, or to be named, purſuant to ſaid act, to keep a regiſter of the ſeveral perſons imported, as in ſaid act is mentioned; *And whereas* there is no penalty enjoined on the purchaſer Preamble.

(a) For the original act ſee before chap. 66. a. 13 Geo. II.

CHAP. CXIV. 22 Geo. II.

or purchaſers of ſaid convicts ſo as aforeſaid imported; *And whereas* there is a duty of Six-pence by ſaid act laid on every paſſenger who hath paid for his paſſage to the maſter or owner of ſuch veſſel wherein he, ſhe, or they are imported, which is found to be an aggrievance to many honeſt perſons imported into this government: For remedying whereof,

Collectors not to take any money, &c. from free paſſengers.

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. (b) by his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That it ſhall not be lawful for any Collector or Collectors mentioned, or to be named purſuant to the ſaid act, after the publication hereof, to take or receive, directly or indirectly, any ſum or ſums of money, or any thing in lieu thereof, of and from any perſon or perſons who ſhall be imported into this government, where it ſhall or may appear by any certificate or other writing, under the hand of the captain, maſter, merchant, or owner of ſuch veſſel wherein ſaid perſon or perſons are imported, that ſame perſon or perſons have paid the ſum of money contracted for with ſaid maſter, owner, or merchant, for his, her, or their paſſage, and that the ſame perſon or perſons are free from any indenture of apprenticeſhip or ſervitude to ſaid maſter, owner or merchant of any veſſel as aforeſaid, or any other perſon whatſoever, on pain of forfeiting the ſum of Three Pounds, current money of this government, to be recovered by bill, plaint, or information, in any Court of Record within this government, wherein no eſſoign, protection, or wager of law, ſhall be allowed; any law, uſage, or cuſtom to the contrary notwithſtanding.

Penalty.

Collectors to keep a regiſter.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That the ſeveral Collectors mentioned, or hereafter to be appointed, purſuant to the aforeſaid act,

(b) James Hamilton began his government in October 1748, and continued until October 1754.

act, ſhall, and each of them are hereby required to keep a fair book or regiſter of all the perſons names who ſhall be imported into this government as redemptioners, ſervants, and convicts, for keeping of which regiſter the ſaid Collector and Collectors ſhall be allowed and paid by the maſter or importer of ſuch redemptioner, ſervant and convict, for each the ſum of Six-pence, and for taking every bond, purſuant to the aforeſaid act, as by ſaid act is directed, and no more.

Penalty on purchaſing convicts.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That any perſon or perſons within this government, who ſhall buy or purchaſe any perſon or perſons convicted of any of the ſeveral crimes in the aforeſaid act mentioned, knowing them to be ſuch, ſuch perſon or perſons buying as aforeſaid, ſhall forfeit the ſum of Ten Pounds, current money, for every ſuch convict ſo as aforeſaid bought, to be recovered in manner aforeſaid, one half thereof to the Governor for the time being, the other half to the informer, or perſon who will ſue for the ſame, together with coſts of ſuit.

John Vance appointed Collector.

SECT. 5. *And whereas* it is found by experience, that ſundry maſters of veſſels, and others, to avoid complying with the aforeſaid act, land ſervants and convicts as aforeſaid, at Reedy Iſland, and thereabouts; for prevention whereof, *Be it enacted by the authority aforeſaid*, That all perſons obliged to make entry by the aforeſaid act, and who incline to land ſaid ſervants and convicts at any place within the bounds of New-Caſtle county, below St George's Creek, ſhall apply to John Vance, of New-Caſtle county, gentleman, who is hereby appointed a Collector of the duties within the limits aforeſaid, as by ſaid act and this ſupplement is impoſed, without any notice or requeſt made by him.

SECT. 6. *Provided always*, That nothing in this ſupplement contained, ſhall be deemed, conſtrued, or underſtood, to alter, change, or repeal, any clauſe, article, or thing, in the aforeſaid act mentioned, except as in this ſupplement is mentioned, any law, cuſtom, or uſage to the contray notwithſtanding.

Paſſed May 7, 1749.

CHAP.

CHAP. CXV.

CHAP. CXV. a.

22 Geo. II. *An* ACT *allowing a ſalary to the Juſtices of the Supreme Courts within this government.* Repealed and ſupplied in chap. 204. a. paſſed March 24, 1770.

CHAP. CXVI. a.

23 Geo. II. *An* ACT *for reviving and continuing an act of Aſſembly of this government, made in the ſeventeenth year of his Majeſty's reign, entituled,* "*An act for the more eaſy and ſpeedy recovery of ſmall debts.*"—Temporary, being for five years; expired. See note at chap. 104. a.

CHAP. CXVII. a.

23 Geo. II. *An* ACT *for repealing an act paſſed in the twenty-ſecond year of his Majeſty's reign, entituled,* An act obliging executors to give ſecurity in the Regiſter's Office, in the reſpective counties within this government, at the time of the proving the wills of their teſtators or teſtatrixes, for the due execution thereof; and likewiſe impowering the ſaid executors to ſell the lands of their teſtators by order of Orphans Courts, and directing how executors ſhall make ſuch ſales, and render accounts of their teſtators eſtates for the future. *(a)*

SECTION 1. BE *it enacted by the honorable James Hamilton, eſq. by his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and*

(a) An act to compel executors to give ſecurity, &c. paſſed February 3, 1787, chap. 146. b. to continue for five years; made perpetual by another act paſſed February 2, 1793. chap. 7. c. with further proviſions.

and with the advice and consent of the Representatives of the freemen of the said counties, in General Assembly met, and by the authority of the same, That from and after the publication of this act, the Orphans Courts in the respective counties of this government, shall, and may, and are hereby enabled to proceed, and call every executor and executors to account for and touching the goods and chattels of their testators or testatrixes, and if, upon examination and due proof thereof made to the respective Orphans Courts within this government, it shall be found that the personal estate of such testators is not sufficient to discharge and pay the several and respective debts due by such decedents, being owners of lands and tenements within this government at the time of their death; and likewise, if the widow and children of the said testators (if any) or any devisee of the said decedents, who have lands left him or them, by the said testators being of the age of twenty-one years, or, being under that age, any person or persons who are or may be their guardians, or any other person or persons who may have the care and tuition of such minors, shall neglect and refuse to pay the said decedents debts which shall remain unpaid after a just settlement of the personal estate of the said decedents in the respective Orphans Courts for the counties aforesaid, in proportion to the parts or parcels of land enjoyed by each devisee, by virtue of any devise as aforesaid; that then, and in such case, it shall and may be lawful for the executor or executors of such testators, by order of the Orphans Court, to sell and convey such part or parts of such decedents lands and tenements, in proportion to each devisee's share, as shall by the said Orphans Court be deemed sufficient to defray and pay the just debts of such testators, upon the best computation the said Orphans Court can make of the value of such lands, so as aforesaid to be sold; all which sales made pursuant to this act, shall be deemed as available as if the said decedents had sold and conveyed the same lands in their life-time. *(b)*

Orphans Court impowered to call executors to account, &c.

In what cases lands may be sold, &c.

SECT.

(b) As to sales by administrators, see after in chap. 129. a. sect. 10, 11.

CHAP. CXVII.

23 Geo. II.

Sales to be advertiſed.

SECT. 2. *Provided always, and be it enacted by the authority aforeſaid*, That before any ſuch ſale of lands and tenements be made as aforeſaid, the court ſhall order ſo many writings to be made by the Clerk of the ſaid Court, as they ſhall think fit, to ſignify and give notice of ſuch ſale, and of the time and place of the ſaid ſale, and alſo what lands are to be ſold, and where they are ſituate, which notice ſhall be by the ſaid executor or executors affixed in three of the moſt public places of the county, and in the hundred where the lands lie, at leaſt twenty days before the ſaid ſale ſhall begin.

Proceedings to be returned into the Orphans Court.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the executor or executors that makes ſuch ſale, ſhall return his, her or their proceedings therein to the next Orphans Court to be held in the reſpective counties after ſuch ſale made; and if it ſhould happen that any lands ſhall be ſold by virtue of this act, for more than the Court's computation of the value thereof, that then, and in ſuch caſe, the executor or executors ſhall be accountable for the ſurpluſage of the ſame, to be paid and divided in ſuch manner as by the ſaid Orphans Court ſhall be directed.

Former acts repealed.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That the aforeſaid act, paſſed in the twenty-ſecond year of his Majeſty's reign, obliging executors to give ſecurity, &c. and every part thereof, is hereby repealed, made void, and utterly annulled and aboliſhed.

CHAP. CXVIII. a.

24 Geo. II.

A Supplementary act for the amendment of an act of General Aſſembly of this government, entituled, An act for the relief of inſolvent debtors, *&c.(a)*

Preamble.

WHEREAS the act of Aſſembly of this government, entituled, *An act for the relief of inſolvent*

(a) See the original act before, chap. 76. a. 13 George II. and an act for amending the ſame, paſſed June 16, 1769. chap. 194. a.

CHAP. CXVIII.
24 Geo. II.

vent debtors within this government, made in the fourteenth year of his Majeſty's reign, is by experience found deficient, and not to anſwer all the good ends and purpoſes thereby intended, in admitting all perſons having a charge of ſmall children not of ſufficient age to be bound out as apprentices, or who ſhall be above the age of forty years, to the benefit and relief of the ſaid act, without lodging a diſcretionary power in the court to grant or reject the petition of ſuch perſons as they ſhall ſee meet, after due enquiry made into the caſe and circumſtances of ſuch petitioner; by means whereof many ill diſpoſed perſons, who have not been real objects of compaſſion, have been relieved by the ſaid act, and have defrauded their creditors of their juſt debts:

SECTION 2. *BE it therefore enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the government of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That if any perſon or perſons within this government, having a charge of ſmall children not of ſufficient age to be bound out as apprentices, or if any perſon or perſons above the age of forty years, ſhall be impriſoned for any ſum or ſums of money, or other debts, above the value of Forty Shillings, and ſhall be willing to deliver up to his, her, or their creditors, all his, her, or their effects and eſtate, towards the ſatisfaction of the debts wherewith he, ſhe, or they, ſtand charged, it ſhall and may be lawful for ſuch perſon or perſons to exhibit a petition or petitions to the Court of Common Pleas of that county where he, ſhe, or they ſhall be impriſoned, in like manner as by the ſaid act is preſcribed and directed; and thereupon the ſaid court ſhall and may proceed to the ſummoning the creditors of ſuch petitioner, and after hearing (on a day to be for that purpoſe appointed) what ſhall be alledged on either ſide for or againſt the diſcharge of ſuch priſoner, if the court ſhall be of opinion, that the priſoner, upon the circumſtances and equity of his caſe, ſhould be diſcharged, then,

Inſolvent debtors having a charge of ſmall children, or being above forty years of age, may petition, &c.

and

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and in ſuch caſe, and no other, the ſaid court ſhall go on to tender or adminiſter to the ſaid priſoner the oath or affirmation in the ſaid act particularly ſpecified, and take ſuch other methods for the diſcharge of the ſaid priſoner, as the ſaid act limits and appoints; but if the ſaid court, upon ſuch examination, ſhall adjudge, that the ſaid priſoner, on the merits of his or her caſe, ought not to be admitted to the benefit of the ſaid act, then the ſaid court ſhall and may reject the petition of ſuch priſoner, and remand him or her to gaol; or if the ſaid priſoner ſhall ſignify his or her willingneſs to deliver up all his or her effects towards the diſcharge of his or her debts, and make ſatisfaction for the reſidue by ſervitude, then the ſaid court ſhall and may adjudge the ſaid debtor to ſerve his or her creditors, their executors, adminiſtrators, or aſſigns, in order as the judgments ſhall be entered againſt him or her, and dignity of the debts, for any term or time not exceeding ſeven years; any law, ſtatute, cuſtom, or uſage to the contrary in any wiſe notwithſtanding.

SECT. 3. *Provided always*, That all and every other part of the ſaid act for the relief of inſolvent debtors within this government, ſhall be and continue in full force, ſave only thoſe parts which by this preſent act are altered and amended.

CHAP. CXIX. a.

24 Geo. II.

An ACT *for the better ſettling inteſtates eſtates.*

SECTION 1. BE *it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the government of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That the Regiſters of the ſeveral counties in this government, having power to grant letters of adminiſtration unto the widow or

Regiſters to take and.

next

next of kin to the inteſtate, and, upon their refuſal to the principal creditor or creditors of the ſaid inteſtate, (a) as the ſaid Regiſter ſhall think meet and convenient, ſhall, upon their granting and committing of ſuch letters of adminiſtration, take ſufficient bond, with one or more able ſureties, in the name of the Governor (b) for the time being (reſpect being had to the value of the eſtate) with a condition in manner and form following, *mutatis mutandis*, *viz.*

THE condition of this obligation is ſuch, That if the above bounden, A. B. adminiſtrator of all and ſingular the goods and chattels, rights and credits of C. D. deceaſed, do make, or cauſe to be made, a true and perfect inventory of all and ſingular the ſaid goods and chattels, rights and credits of the ſaid deceaſed, which have or ſhall come to the hands, poſſeſſion or knowledge of the ſaid A. B. or unto the hands and poſſeſſion of any other perſon or perſons for him; and the ſame ſo made, do exhibit, or cauſe to be exhibited, unto the Regiſter's Office of the county of at or before the day of next inſuing; and the ſame goods and chattels, rights and credits of the ſaid deceaſed, at the time of his death, or which at any time after ſhall come to the hands or poſſeſſion of the ſaid A. B. or into the hands and poſſeſſion of any other perſon or perſons for him, do well and truly adminiſter, according to law; and further do make, or cauſe to be made, a true and juſt account of his adminiſtration, at or before the day of And all the reſt and reſidue of the ſaid goods and chattels, rights and credits, which ſhall be found remaining upon the ſaid adminiſtrator's account, the ſame being firſt examined and allowed of by the Orphans Court of the county where the ſaid adminiſtration is granted, ſhall deliver and pay unto ſuch perſon or perſons reſpectively, as the ſaid Orphans Court in the reſpective counties, by their decree or ſentence, purſuant to the true intent and meaning of this act, ſhall The condition.

(a) See chap. 186. a. paſſed November 1, 1766. The right of huſbands to have adminiſtration of their wives eſtates expreſſly declared.

(b) The Delaware State by an act of Feb. 22, 1777, chap. 2. b. ſect. 3. and "The State of Delaware," by the conſtitution of June 1792, in art. 6. ſect. 21.

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limit and appoint. And if it ſhall hereafter appear that any laſt will and teſtament was made by the ſaid deceaſed, and the executor or executors therein named do exhibit the ſame into the Regiſter's Office, making requeſt to have it allowed and approved accordingly; if the ſaid A. B. *within bounden, being thereunto required, do ſurrender and deliver up the ſaid letters of adminiſtration (approbation of ſuch teſtament being firſt had and made in the Regiſter's Office) then this obligation to be void and of none effect, or elſe to remain in full force aud virtue.*

Eſtate how to be divided by the Orphans Courts.

SECT. 2. *Which* bonds are hereby declared and enacted to be good to all intents and purpoſes, and pleadable in any Court of Juſtice within this government, *(c)* and alſo that the ſaid Orphans Courts in the reſpective counties of this government, ſhall, and may, and are hereby enabled to proceed and call ſuch adminiſtrator or adminiſtrators to account for and touching the goods and chattels of any perſon dying inteſtate, and upon the hearing and due conſideration thereof, to order and make juſt and equal diſtribution of what remaineth clear of the deceaſed's perſonal eſtate, after all debts, funeral and juſt expences of every ſort firſt allowed and deducted, amongſt the widow and children, or their legal repreſentatives, if any ſuch be, in manner and form following; *That is to ſay*, one third part of the ſurpluſage of the ſaid inteſtate's perſonal eſtate to the widow of the ſaid inteſtate for ever, and the reſidue of the deceaſed's perſonal eſtate ſhall be diſtributed, by equal portions, to and amongſt the children of the ſaid deceaſed, and ſuch as ſhall legally repreſent them, if any of the ſaid children be then dead, other than ſuch child or children, who ſhall have any eſtate by ſettlement of the inteſtate, or ſhall be advanced by him in his life-time, by portion or portions equal to the ſhare which ſhall by ſuch diſtribution be allotted to the other children, to whom ſuch diſtributions are to be made; and in caſe there be any child or children, or their repreſentatives, who ſhall have had any eſtate by ſettlement

(c) See chap. 30. a. ſect. 12 Ante, directing the proceeding in caſe of ſuits brought thereon.

ment from the inteſtate, or ſhall have been advanced by the ſaid inteſtate in his life-time by portion or portions not equal to the ſhare which will be due to the other children by ſuch diſtribution as aforeſaid, then ſo much of the ſurpluſage of the eſtate of ſuch inteſtate ſhall be diſtributed to ſuch child or children, or their repreſentatives ſo advanced as aforeſaid, as ſhall make the eſtate of all the ſaid children to be equal, as near as can be eſtimated. And in caſe there be no children, nor any legal repreſentatives of them, then one moiety of the ſaid perſonal eſtate to be allotted to the widow of the inteſtate, and the reſidue of the ſaid eſtate to be diſtributed equally to and among the brothers and ſiſters of the deceaſed, or their legal repreſentatives; and in caſe there be no brothers and ſiſters, or legal repreſentatives of them, then the reſidue of the ſaid perſonal eſtate to be diſtributed equally to every of the next of kindred of the inteſtate, who are in equal degree, or thoſe who legally repreſent them; and if there be no kindred, then the whole of the ſaid perſonal eſtate to be allotted to the widow of the inteſtate for ever. *Provided always*, That there be no repreſentatives admitted amongſt collaterals after brothers and ſiſters grand-children. And in caſe there be no wife, then the ſaid perſonal eſtate to be diſtributed equally to and amongſt the children of the inteſtate, and their legal repreſentatives. And in caſe there be no wife or child, then the perſonal eſtate of the ſaid deceaſed to be diſtributed equally to and amongſt the brothers and ſiſters of or unto the inteſtate, and their legal repreſentatives; and in caſe there be no brothers or ſiſters, or legal repreſentatives of them, then to the next of kindred in equal degree of or unto the inteſtate and their legal repreſentatives as aforeſaid, and in no other manner whatſoever.

Diſtribution not to be made before the expiration of one year, &c.

SECT. 3. *Provided alſo, and be it further enacted by the authority aforeſaid, to the end that a due regard be had to the creditors of the inteſtate*, That no ſuch diſtribution of the goods and chattels of any perſon dying inteſtate, ſhall be made as aforeſaid, till one year be fully expired after the inteſtate's death, and that every one, to whom any diſtribution or ſhare ſhall be allotted, ſhall give bond with ſufficient ſurety or

ſureties

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ſureties to the Orphans Court, in the name of the Governor for the time being, for the uſe of the adminiſtrator or adminiſtrators, that if any debt or debts, truly owing by the inteſtate, ſhall be afterwards ſued for, and recovered, or otherwiſe duly made appear, that then, and in every ſuch caſe, he, ſhe, or they, ſhall reſpectively refund and pay back to the adminiſtrator, or adminiſtrators, his, her, or their rateable part of the ſaid debt or debts, and of the coſts of ſuit and charges of the ſaid adminiſtrator or adminiſtrators, by reaſon of ſuch debt or debts, out of the parts or ſhares ſo as aforeſaid allotted to him, her, or them, thereby to enable the ſaid adminiſtrator or adminiſtrators to pay and ſatisfy the ſaid debt or debts ſo recovered, or made to appear, after diſtribution made as aforeſaid.

Refunding bond to be given.

Adminiſtration with teſtament annexed, &c.

SECT. 4. *Provided always, and be it further enacted by the authority aforeſaid*, That in all caſes where the Regiſter hath uſed heretofore to grant adminiſtration, with the teſtament annexed, he ſhall continue ſo to do, and the will of the deceaſed, in ſuch teſtament expreſſed, ſhall be performed and obſerved in ſuch manner as it ſhould have been if this act had never been made.

Lands of inteſtates how to be divided, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall die inteſtate, being owners of lands, tenements and hereditaments, within this government, at the time of his death, that then all and every ſuch lands, tenements and hereditaments ſhall be ſubject to a diviſion, and be diſtributed according to the manner and form herein after expreſſed; *That is to ſay*, one third part of the ſaid lands, tenements, and hereditaments, to the widow of the ſaid inteſtate, during her natural life (where ſuch widow ſhall not be provided for by marriage ſettlement or otherwiſe) and the reſidue of the ſaid deceaſed's real eſtate ſhall be diſtributed, by equal portions, to and amongſt the children of the ſaid deceaſed, or ſuch as ſhall legally repreſent them, if any of them be dead, and to their heirs and aſſigns for ever, other than ſuch child or children who ſhall have any real or landed eſtate by ſettlement, or ſhall have been advanced by the ſaid deceaſed in his or her life-

time,

time, by portion or part of ſuch real eſtate equal to the ſhares which ſhall by ſuch diſtribution be allotted to the other children to whom ſuch diſtributions are to be made. And in caſe there be any child or children who ſhall have any real or landed eſtate by ſuch ſettlement from the inteſtate, or ſhall be advanced by the inteſtate in his or her life-time by part or portion not equal to the ſhare which ſhall be allotted to the other children by ſuch diſtribution as aforeſaid, then ſo much of the real or landed eſtate of ſuch inteſtate ſhall be diſtributed to ſuch child or children as ſhall have had any ſuch ſettlement from the inteſtate, or were advanced in the life-time of the inteſtate, as ſhall make the real or landed eſtate of all the ſaid children to be equal, as near as can be eſtimated, except the eldeſt ſon, or his lawful iſſue (if any be) who ſhall have two ſhares, or a double portion of the whole of the real or landed eſtate of the ſaid inteſtate. *(d)* And when there are no ſons, the daughters ſhall inherit as coparceners in the diviſion of the inteſtate's lands, tenements, and hereditaments. *(e)* And in caſe there be no child or children, nor any legal repreſentatives of them, then one moiety of the real or landed eſtate of the inteſtate ſhall be allotted to the widow of ſuch inteſtate, during her natural life, and the reſiduo thereof ſhall be diſtributed equally to and amongſt the brothers and ſiſters of the deceaſed, or their legal repreſentatives. *(f)* And in caſe there be no brothers or ſiſters, or legal repreſentatives of them, then the ſaid reſidue to be diſtributed equally to every of the next of kindred of the inteſtate, who are in equal degree, or thoſe who legally repreſent them. And in caſe there be no wife, then all the ſaid real or landed eſtate

(d) By a ſupplementary act hereto, chap. 53. c. paſſed January 29, 1794, the eldeſt ſon or his lawful iſſue, or their repreſentatives, of every perſon "dying inteſtate within this ſtate," thereafter to have no more than an equal ſhare with the other children of the inteſtate: And this part of the original act giving a double portion to the eldeſt ſon of "ſuch an inteſtate." Repealed.

(e) See before in chap. 28. a. the Proviſo in ſect. 1.

(f) See this added to and explained in chap. 222. a. ſect. 4. paſſed November 6, 1773, making a diſtinction between the whole and half blood in certain caſes.

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eſtate to be divided amongſt the children of the inteſtate, or their legal repreſentatives, in manner and form aforeſaid. And if there be no wife or child, then to the brothers and ſiſters of the ſaid deceaſed, or their legal repreſentatives. And in caſe there be no brothers or ſiſters, or legal repreſentatives of them, then to the next of kindred in equal degree of or unto the inteſtate, and their legal repreſentatives, as aforeſaid, and in no other manner whatſoever. *(g)*

Five Freeholders to be choſen to divide, &c.

SECT. 6. *And* for the leſſening the charge of dividing the lands of inteſtates amongſt their children or their heirs, *Be it enacted by the authority aforeſaid*, That the Juſtices of the Orphans Court of the county where the lands lie, upon application made to them by any of the children, or other heirs of the inteſtate, *(h)* when he, ſhe, or they, ſhall attain to the age of twenty-one years, ſhall, and are hereby impowered to appoint five ſufficient freeholders of the county, who, being firſt ſworn or affirmed for that purpoſe in open court, or before ſome Judge, or Juſtice of the Peace of the county, ſhall take with them a ſkilful ſurveyor, to be qualified on his ſolemn oath or affirmation, and go upon the lands of the inteſtate, and divide the ſame equally amongſt the children or other heirs of the inteſtate, according to the directions, true intent, and meaning of this act, due regard being had to the quality as well as quantity of the ſaid lands; which ſaid five freeholders, or any three of them, agreeing, ſhall make return of ſuch diviſion to the next Orphans Court: And if ſuch diviſion be approved of by the ſaid court, the ſame ſhall remain firm and ſtable for ever.

SECT. 7. *Provided always*, That nothing in this act contained ſhall be deemed or judged to extend to ſuch perſons intereſted in any lands, tenements, or hereditaments of the inteſtate, who, being of age, and capable

(g) See chap. 186. a. ſect. 3. paſſed November 1, 1766, that in the diviſion of inteſtates real eſtates, there be no repreſentatives admitted after brothers and ſiſters grand-children.

(h) See alſo in ſaid chap. 186. a. ſect. 2. that widow, guardian, or legal aſſignee, may make ſuch application.

capable to act for themſelves, ſhall agree of and make diviſion of ſuch lands, &c. amongſt one another, and mutually give each other releaſes in writing, under their hands and ſeals; in which caſe ſuch releaſes ſhall be allowed and accounted good and valid in law, being firſt acknowledged by the parties ſubſcribing the ſame in open Court of Common Pleas for the aforeſaid reſpective counties, and duly enrolled.

Proceedings where lands cannot well be divided, &c.

SECT. 8. *Provided alſo, and be it further enacted by the authority aforeſaid*, That where any eſtates in lands, tenements, and hereditaments, cannot be divided amongſt all the children or other heirs of the inteſtate, without prejudicing and ſpoiling the whole, the ſame being ſo repreſented and made to appear by the report of the ſaid five freeholders, or any three of them, to the Orphans Court of the county where the ſaid lands or tenements lie; then, and in ſuch caſe, the ſaid court may and ſhall order the whole of ſuch lands or tenements *(i)* to the eldeſt ſon, if he will accept it, or, on his refuſal, to any other of the ſons ſucceſſively; and if all the ſons refuſe, or there ſhould be no ſons, then to the eldeſt daughter, or, on her refuſal, to every other of the daughters ſucceſſively, *(k)* he, ſhe, or they, paying to the other children of the deceaſed, or their repreſentatives, their equal or proportionable parts or ſhares of the appraiſed value of ſuch lands, tenements, and hereditaments, to be made by three ſufficient freeholders to be appointed by the Orphans Court, and qualified as aforeſaid for that purpoſe, or giving good ſecurity to pay the ſame in ſuch reaſonable time as the ſaid Orphans Court ſhall limit and appoint; and the perſon or perſons, whether minors or others, to whom, or for whoſe uſe, payment or ſatisfaction ſhall be made as aforeſaid, for his, her, or their reſpective parts or ſhares of the deceaſed's

(i) See in chap. 186. a. ſects. 2, 3. An expreſs ſaving of the widow's thirds thereof during her natural life, and of her moiety in caſe of a valuation where only collateral heirs.

(k) In the act of November 1766, chap. 186. a. the order of acceptance on a valuation in caſe of collaterals and legal aſſignees, &c. is preſcribed. And by the act, chap. 222, a. ſect. 3, paſſed November 6, 1773, if the preference of taking at a valuation be in a minor then the next in order of ſucceſſion may take.

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ceaſed's lands, tenements, and hereditaments, ſhall be for ever debarred of all his, her, or their right, title, and demand, of, in, and to ſuch ſhare or parts, by virtue of this act, and the ſame ſhall be held and enjoyed by the ſaid purchaſer, as freely and fully as the inteſtate held the ſame; ſaving to any perſon or perſons aggrieved at any order, ſentence, or decree of the Orphans Court, made for the ſettlement and diſtribution of any inteſtates eſtates, their right of appeal to the Supreme Court of this government, *(l)* to be held for each county reſpectively; every perſon ſo appealing giving ſecurity to proſecute the ſaid appeal with effect, within twelve months after ſuch appeal.

Refunding bond to be given the adminiſtrators, &c.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That every one, to whom any diſtribution or ſhare of the inteſtate's lands, tenements, and hereditaments, ſhall be allotted, ſhall give bond, with ſufficient ſurety or ſureties, if required, to the Orphans Court, in the name of the Governor for the time being, for the uſe of the adminiſtrator or adminiſtrators, to refund, if any debts of the inteſtate ſhould afterwards be recovered, or made appear, in the ſame manner and form as is herein before directed in the diſtribution of inteſtates perſonal eſtates; and the widow's part or portion of the lands, tenements, and hereditaments of the inteſtate, ſhall, after her deceaſe, be diſtributed and divided amongſt the children or other heirs of the inteſtate, by ſuch proportions and in like manner as aforeſaid.

Ante ſect. 3.

Widow's portion, &c.

Perſonal eſtate being inſufficient to pay debts, lands may be ſold, &c.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That if the perſonal eſtate of any perſon or perſons dying inteſtate, being owners of lands and tenements, at his deceaſe, within this government, ſhall be found inſufficient to pay their juſt debts, and maintain their children, then, and in ſuch caſe, it ſhall and may be lawful for the adminiſtrator or adminiſtrators of ſuch deceaſed, *(m)* to ſell and convey ſuch

(l) This affirmed in art. 6. ſect. 15, of the conſtitution of June 1792.

(m) See before chap. 117. a. ſales by executors to pay debts under order of Orphans Courts.

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24 Geo. II.

such part or parts of the lands, tenements, and hereditaments of the said deceased, for the defraying their just debts, maintenance of their children, and putting them apprentices, and teaching them to read and write, and for the improvement of the residue of the estate (if any be) to their advantage, as the Orphans Court of the county where such estate lies, shall think fit to allow, order, and from time to time direct.

Children to be educated, &c.

Sect. 11. *Provided always*, That no lands and tenements contained in any marriage settlement, shall, by virtue of this act, be sold or disposed of contrary to the form and effect of such settlement, nor shall any Orphans Court allow or order any intestate's lands and tenements to be sold before the administrator or administrators, requesting the same, do exhibit one or more true and perfect inventory or inventories, and conscionable appraisement, of all the intestate's personal estate whatsoever, *(n)* and also a true and just account upon his, her, or their solemn oath or affirmation, of all the intestate's debts which shall be then come to his, her, or their knowledge; and if thereupon it shall appear to the said court, that the intestate's personal estate will not be sufficient to pay the debts and maintain the children until the eldest son attains the age of twenty-one years, or to put them out apprentices, and teach them to read and write, then, and in every such case, and not otherwise, the said court shall allow such administrator or administrators to make public sale of so much of the said lands, as the court, upon the best computation they can make of the value thereof, shall judge necessary for the purposes aforesaid, reserving the mansion-house and most profitable part of the estate till the last. But before any such sale the court shall order so many writings to be made by the Clerk as they shall think fit, to signify and give notice of such sale, and of the day and place where the said sale will be, and what lands are to be sold, and where they lie, which notices shall be by the administrator or administrators affixed in the most public places of the county, at least

Marriage settlements, &c.

Administrators to exhibit an inventory, &c.

Public notice to be given of all sales of land, &c.

(n) See chap. 186. a. sect. 5.

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twenty days before the ſaid ſale is to begin, and the adminiſtrator or adminiſtrators ſhall bring his, her, or their proceedings thereon to the next Orphans Court after ſuch ſale made, and if it ſhould happen that any lands be ſold, by virtue of this act, for more than the court's computation of the value thereof, then the adminiſtrator or adminiſtrators ſhall be accountable for the ſurpluſage of the ſame to be paid and divided as by this act is before required and directed, in reſpect of the inteſtate's perſonal eſtate.

Surpluſage how to be divided.

SECT. 12. *And be it further enacted by the authority aforeſaid*, That the ſurpluſage and remaining parts of the inteſtate's lands, tenements, and hereditaments, ſhall be divided as the other lands of the inteſtate are herein before directed.

Poſthumous children how to be provided for.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That if any poſthumous child or children of any perſon dying inteſtate, leaving a perſonal and real or landed eſtate within this government, ſhall be born, ſuch poſthumous child or children ſhall be admitted and entituled to ſuch part or portion of the ſaid deceaſed's perſonal and real eſtate as the ſaid child or children would have ſhared had he, ſhe, or they, been born and living at the time of the ſaid inteſtate's death; and if any perſon ſhould die, leaving a perſonal and real eſtate as aforeſaid, his wife being pregnant or with child, and ſhall have diſpoſed of his eſtate by a will in writing, or a nuncupative will, *(o)* without taking notice, or having made any proviſion in his ſaid will, for ſuch child or children in *ventre ſa mere*, ſuch child or children born after the death of the ſaid teſtator, ſhall be admitted and entituled to ſuch part or portions of the deceaſed's whole eſtate, as he, ſhe, or they, would have ſhared, by virtue of this act, if the ſaid teſtator had died inteſtate, and no ſuch will had ever been made. And if any one ſhall die inteſtate, having no known kindred but a wife, then all his lands, tenements, and hereditaments, ſhall be enjoyed by his wife, during her natural life, and after her

Effects of inteſtates, having no relations, &c. how to be diſpoſed of.

(o) This part of the ſection added to and further proviſion made in caſe of marriage, or children born, after making a will, in chap. 186. a. ſect. 4. and for the coſts ariſing on a partition or valuation.

her death the ſame ſhall eſcheat to the immediate landlord of whom ſuch lands, tenements, and hereditaments are held, and to his heirs and aſſigns for ever. And all the goods, chattels, and perſonal eſtate whatſoever, of ſuch perſons dying inteſtate, and without wife or kindred, ſhall go to the Governor and Commander in Chief of this government, for the time being, and his heirs and aſſigns for ever. But if any of the ſaid inteſtate's relations ſhall appear, and make good their claim or claims to ſuch inteſtate's perſonal eſtate within ſeven years after the deceaſe of the inteſtate, they ſhall be reſtored thereunto. And if any lawful heir to any ſuch eſcheated lands, or tenements, ſhall at any time appear within twenty-one years after the inteſtate's deceaſe, he may traverſe the inquiſition or office found for the lands ſo eſcheated, and recover the ſame, paying the lord, or perſon in poſſeſſion, for the improvements they have made thereon, according to the valuation of a jury of twelve men, to be appointed by the Court of Common Pleas for that county in which the ſaid lands or tenements lie.

Former laws repealed.

SECT. 14. *And be it further enacted by the authority aforeſaid*, That all laws, or acts of Aſſembly, heretofore made in this government, for the ſettling inteſtates eſtates, and directing the deſcent or diſtribution thereof, and every matter, clauſe, and thing therein contained, ſhall be, and are hereby declared to be repealed, made null and void.

SECT. 15. *Provided always*, That all ſettlements and diviſions of any inteſtates eſtates, either real or perſonal, heretofore made, purſuant to any former laws of this government, ſhall ſtand in full force, and are hereby ratified, confirmed and approved.

CHAP.

CHAP. CXX.

25 Geo. II.

CHAP. CXX. a.

An ACT *againſt larceny to the value of Five Shillings and upwards. (a)*

SECTION. I. BE *it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if any perſon or perſons within this government, ſhall feloniouſly and fradulently take and carry away any goods, chattels, or effects of another, to the value of Five Shillings or upwards, which is not made felony of death by any law of this government, and ſhall be duly convicted thereof at the Court of Quarter Seſſions to be held for the reſpective county where ſuch offence ſhall be committed, he, ſhe, or they, ſo offending, their acceſſaries, aiders, comforters, and abettors, ſhall reſtore the goods, chattels, or effects, ſo ſtolen, to the right owner thereof, and pay to the ſaid owner double the value thereof; or if the ſaid goods, chattels, or effects, cannot be found, then the fourfold value thereof, with the full coſts of proſecution, and be committed to the public gaol, till all the ſaid ſums be paid, and ſhall be whipped at the public whipping poſt of the county, with any number of laſhes not exceeding twenty-one, on his, her, or their bare back, well laid on, and ſhall be adjudged to wear a Roman T, as a mark or badge of his, her, or their crime, not leſs than four inches in length, and one inch in breadth, on the outer part of the left arm, between the ſhoulder and the elbow, which ſhall be of ſuch colour as the court ſhall order and direct at all times that he, ſhe, or they, ſhall travel or appear from his,

Larceny above Five Shillings how to be puniſhed.

(a) The "act directing the puniſhment of petty-larceny" chap. 96. a. Ante.—Repealed and ſupplied in chap. 120. b. paſſed June 4, 1785, and that offence to be proſecuted for and puniſhed as in this act.

his, her or their habitation, for the term of ſix months; and if ſuch felon or felons ſhall at any time, during the ſaid term of ſix months, be found from his, her, or their habitation, without ſuch badge or mark, and be thereof duly convicted before any Juſtice of the Peace, he, ſhe, or they, for every ſuch offence, ſhall be whipped not exceeding twenty-one laſhes.

Second offence.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall be duly convicted of ſuch offence as aforeſaid, a ſecond time, he, ſhe, or they, ſo offending, their acceſſaries, aiders, comforters, and abettors, ſhall make four-fold ſatisfaction, as aforeſaid, to the owner or owners of the goods, chattels, or effects ſtolen, and be whipped at the public whipping-poſt of the county with any number of laſhes not exceeding thirty-one, and ſhall ſtand in the pillory for the ſpace of two hours, and pay the coſts of proſecution, and be committed as above directed.

Where the criminal is inſolvent, ſatisfaction is to be made by ſervitude.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons convicted as aforeſaid of either of the ſaid offences, ſhall not have ſufficient eſtate, real or perſonal, to make ſatisfaction as aforeſaid, and diſcharge the coſts attending the proſecution, he, ſhe, or they, ſhall be adjudged by the Court of Quarter-Seſſions for the reſpective county where ſuch offence ſhall be committed, to be diſpoſed of as a ſervant by the Sheriff, for the payment thereof, for any term or time not exceeding ſeven years. *(b)*

For the third offence, death.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall commit a third offence as aforeſaid, and be duly thereof convicted, he, ſhe, or they, ſo offending, ſhall ſuffer death, *(c)* without benefit of clergy, any cuſtom, law, or ſtatute to the contrary in any wiſe notwithſtanding.

SECT. 5. *And be it further enacted by the authority aforeſaid*,

(b) See before chap. 77. a. ſect. 13. chap. 89. a. ſect. 9, and ſee after in chap. 45. b. ſect. 3. chap. 145. b. ſect. 9.

(c) Not to be in caſe of petty larceny, ſee chap. 120, b,

CHAP. CXX. 25 Geo. II.

aforeſaid, That if any perſon or perſons ſhall agree or compound any felony, made puniſhable by this act, or ſhall take back again his, her, or their ſtolen goods, or receive any amends not to proſecute ſuch felon or felons, and ſhall be duly convicted thereof at any Court of Quarter-Seſſions for the reſpective county where ſuch offence ſhall be committed, he, ſhe, or they, ſo offending, ſhall forfeit and pay treble the value of the goods ſtolen, or the ſums taken or agreed for, to the Governor for the time being, towards the ſupport of government, to be recovered by action of debt, bill, plaint, or information, in any court within this government, wherein no eſſoign, protection, or wager of law ſhall be allowed, nor more than one imparlance.

Penalty on compounding of felonies, &c.

SECT. 6. *Provided always, and be it enacted by the authority aforeſaid*, That no indictment, preſentment, or proceſs whatſoever, now depending in any court within this government, for any of the crimes or offences mentioned in this act, ſhall be diſcontinued, abated, or quaſhed, for or by reaſon of this act, or any thing herein contained; but the Juſtices of the reſpective Courts in this government ſhall proceed to hear, try, and determine the ſaid offences, and thereupon to give judgment, and award execution, according to the directions of the law, or acts of Aſſembly, on which the ſaid indictment, preſentment, or proceſs, are founded, any thing herein contained to the contrary in any wiſe notwithſtanding.

Former act repealed.

SECT. 7. *And be it further enacted*, That the law of this government, entituled, *An act againſt robbing and ſtealing*, ſhall be, and is hereby repealed.

CHAP. CXXI. a.

25 Geo. II. *An* ACT *obliging perſons returned and appointed for Conſtables, to ſerve accordingly.* Repealed and ſupplied: See after chap. 205. a.

CHAP.

CHAP. CXXII. a.

CHAP. CXXII.

25 Geo. II.

An ACT *for the making and eſtabliſhing a new Great Seal for the uſe of this government. (a)*

Preamble.

WHEREAS, by an act of Aſſembly of this government, entituled, *An act for eſtabliſhing a Great Seal for this government*, it is therein directed, that a certain Silver Seal, in the then Governor's Cuſtody, with the King of Great Britain's arms engraved thereon, and the inſcription, *Delaware*, round it, ſhould be held and deemed to be the Great Seal of government in theſe counties and territories, to be made uſe of and affixed to all judicial writs, of whatſoever kind, iſſued in the King's name, and made returnable into the Supreme Court of this government, alſo to all Charters, Patents, Commiſſions, Privileges, or Authorities, which the Governor for the time being, by virtue of his commiſſion and power, might or could lawfully grant; *And whereas*, upon viewing the ſaid ſeal, it is found that the inſcription, *Dellowarre*, round the ſame is thereon cut, inſtead of the word, *Delaware*, in the ſaid act mentioned: Therefore, for preventing any doubts and controverſies that may ariſe, by reaſon thereof,

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That all Laws, Patents, Grants, Commiſſions, and other Public Writings, heretofore ſealed with the ſeal now called the Great Seal of this government, and inſcribed round the ſame with the word, *Dellowarre*, or which hereafter may be ſealed with

Laws, &c. ſealed with the preſent ſeal to be deemed valid, &c.

(a) See article 19, of the conſtitution or ſyſtem of government eſtabliſhed in convention of the Delaware State, September 20, 1776, providing for the making a new Great Seal. See alſo an act paſſed Feb. 2, 1793. chap. 5. ſects. 9. 11. providing for another Great Seal.

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with the ſaid ſeal, until another be provided, and delivered into the hands and poſſeſſion of the Governor for the time being, ſhall be deemed, taken and adjudged to be as good and available in law, as if the inſcription round the ſame had been *Delaware*, purſuant to the ſaid act of Aſſembly.

A new ſeal to be provided.

SECT. 3. *And be it further enacted*, That Jehu Curtis, Benjamin Chew, and Abraham Wyncoop, gentlemen, or any two of them, are hereby authorized and appointed to procure, at the expence of this government, with all poſſible ſpeed, a Silver Seal to be made of the diameter of two inches, and to cauſe the ſame to be engraven, with the arms of the King of Great Britain, and an inſcription of the words, *Counties on Delaware*, and the figures 1751, round the ſame, which ſeal, when ſo engraven, and inſcribed, ſhall be delivered to the Governor for the time being, by the aforeſaid Jehu Curtis, Benjamin Chew, and Abraham Wyncoop, gentlemen, or any two of them, and from thenceforth ſhall be taken, adjudged, and deemed, to be the Great Seal of this government, to be made uſe of and affixed to all Laws, Writs, Charters, Patents, Commiſſions, and other Public Writings, which the Governor for the time being, by virtue of his commiſſion, power, and the laws of this government, may or can grant. The which new ſeal being ſo as aforeſaid made, engraven, inſcribed, and delivered, the aforeſaid Jehu Curtis, Benjamin Chew, and Abraham Wyncoop, or any two of them, ſhall cauſe the Great Seal now in uſe, to be broken and defaced in their preſence.

All laws, &c. to be ſealed with the new Seal, after the ſame ſhall be delivered to the Governor.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all Laws, Writs, Charters, Patents, Grants, Commiſſions, and other Public Writings, whereto an impreſſion of the ſame Great Seal may be required, ſhall be of no force, or have any effect in law, to the purpoſes therein reſpectively mentioned, until the impreſſion of the ſaid ſeal, after delivery thereof to the Governor for the time being, as aforeſaid, be thereunto affixed, either by the Governor for the time being, who is hereby underſtood and declared to be the principal and ſole keeper of the Great Seal of this government, or by ſuch perſon or perſons,

as

as by the Governor for the time being, from time to time, may be appointed for keeping of the ſaid Great Seal.

Keeper of the Seal not to affix the ſame but by warrant from the Governor.

SECT. 5. *Provided always, and be it further enacted by the authority aforeſaid,* That it ſhall not be lawful for any perſon or perſons to be appointed as aforeſaid, to affix any impreſſion of the ſaid Great Seal to any Writ, Charter, Patent, Commiſſion, or other Public Writing, until the ſaid perſon or perſons, to be appointed as aforeſaid, ſhall firſt obtain a warrant under the Governor's Sign Manual and Seal at Arms, for affixing each ſtamp and impreſſion of the ſaid Great Seal reſpectively; which warrant, ſo as aforeſaid granted by the Governor for the time being, from time to time as aforeſaid, ſhall be carefully preſerved on a file in the office where the ſaid Great Seal is kept.

Penalty on affixing the ſame without warrant.

SECT. 6. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons, either by fraud, or any pretended authority whatſoever, ſhall at any time affix the impreſſion of the ſaid Great Seal unto any parchment, paper, wax, or wafer, or otherwiſe, than by warrant under the Governor's Sign Manual, and Seal at Arms, as aforeſaid, to be preſerved in the office, as aforeſaid, he or they ſo offending, ſhall forfeit the ſum of Two Hundred Pounds, to be levied for the Governor's uſe, and ſhall be for ever incapable of any public truſt within this government, and ſhall ſuffer the puniſhment inflicted by the laws of that part of Great Britain called England, on perſons convicted of forgery.

Fee to the keeper of the ſeal.

SECT. 7. *And* for defraying the neceſſary expence of parchment, paper, wafers, and wax, and appointing and keeping an office for the ſaid Great Seal, with a proper Clerk to give his attendance on the ſame, *Be it enacted by the authority aforeſaid,* That for each impreſſion of the ſaid Great Seal, there ſhall be paid by the party or parties requiring the ſame, to the Clerk of the ſaid Office, or any other perſon appointed by the Governor to receive the ſame, the ſum of Twenty Shillings, for the Governor's proper uſe, as a recom-

CHAP. CXXII.

pence for the trouble and charge of keeping the Office of Great Seal of this government. (g)

25 Geo. II. former act repealed.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That an act of Aſſembly of this government, entituled, *An act for eſtabliſhing a Great Seal of this government*, ſhall be, and is hereby repealed.

CHAP. CXXIII. a.

25 Geo. II. *An* ACT *for preventing accidents that may happen by fire in any of the towns or villages within this government.*

BE *it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That from and after the publication of this act, if any perſon or perſons within any town or village of this government, ſhall ſet on fire any chimney or chimnies of the houſe or houſes wherein he, ſhe, or they dwell, to cleanſe the ſame, or, by neglect, ſhall ſuffer his, her, or their chimney or chimnies to take fire, and blaze out at the top thereof, every ſuch perſon being thereof duly convicted, by the oath or affirmation of one credible witneſs, or the confeſſion of the party or parties offending, before any one Juſtice of the Peace of the town or hundred wherein ſuch chimney ſhall take fire, ſhall, for every ſuch offence, or neglect, forfeit the ſum of Twenty Shillings, to be levied, together with coſts of proſecution, on his, her, or their goods and chattels, by diſtreſs and ſale thereof to be made, by warrant under the hand and ſeal of ſuch juſtice; which ſaid forfeiture ſhall be paid to the Treaſurer of the reſpective county for the time being, for the uſe of the poor of the town or hundred wherein ſuch chimney ſhall take fire.

CHAP.

(g) See chap. 27. c. ſects. 1, 2, paſſed June 15, 1793.

CHAP. CXXIV. a.

CHAP. CXXIV.

25 Geo. II.

An ACT *for the amendment of an act, entituled,* An Act for eſtabliſhing a market in the town of Dover, in the county of Kent, and in the town of Lewes, in the county of Suſſex, within this government. *(a)*

Preamble.

WHEREAS the ſaid act hath been found inſufficient, ſo far as it concerns the town of Dover, in regard that no place within the ſaid town hath yet been laid out, and called by the name of a market ſquare, nor any place yet allotted for building a market-houſe, or appointed where proviſions may be bought and ſold on market days, until ſuch houſe ſhall be built: For remedy whereof,

Perſons appointed to lay out a market ſquare, &c.

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That Nicholas Ridgely, eſq. Andrew Caldwell, and Thomas Alford, of Kent county, gentlemen, or any two of them, ſhall lay out, and are hereby authoriſed and required, with all convenient ſpeed, after the publication of this act, to lay out a ſquare plot of ground in or near the middle of that part of the town of Dover, commonly called the court-houſe ſquare, which ſaid plot of ground, when ſo laid out, ſhall be called the market-ſquare. *And* the ſaid Nicholas Ridgely, eſq. Andrew Caldwell, and Thomas Alford, or any two of them, ſhall alſo allot and deſcribe ſome ſpot of ground within the ſaid market-ſquare, for building a market-houſe upon, and make return of their proceedings therein to the next ſucceeding Court of Quarter-Seſſions, to be held for the ſaid county of Kent, who ſhall order the

(a) See before chap. 99. a. 15 Geo. II.

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the ſame to be recorded in the Rolls Office for the ſaid county.

Market houſe to be built.

SECT. 3. *And* that the inhabitants of the ſaid town of Dover may not be longer prevented from building a market-houſe, and putting the ſaid act in execution ſo far as it relates to them, *Be it enacted by the authority aforeſaid*, That as ſoon as the ſaid Nicholas Ridgely, Andrew Caldwell, and Thomas Alford, or any two of them, ſhall have laid out the market-ſquare, and ſpot of ground for a market-houſe, as aforeſaid, they, or any two of them, ſhall, and are hereby required and authoriſed to have the overſight and care of building the ſaid market-houſe; and that as ſoon as a market-houſe ſhall be built, as aforeſaid, the ſaid act ſhall be put in execution, to which all perſons concerned are hereby required to be aſſiſting.

Clerk of the Market appointed.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That Thomas Parke, eſq. of the town of Dover aforeſaid, is hereby appointed and conſtituted Clerk of the Market for the ſaid town of Dover.

SECT. 5. *Provided always, and be it further enacted*, That no perſon or perſons ſhall be reſtricted from buying and ſelling proviſions in any part of the ſaid town of Dover, until the ſaid market-houſe ſhall be built, any thing in the above recited act to the contrary notwithſtanding.

SECT. 6. *And whereas* many pedlars and petty chapmen, recommended and licenſed to ſell goods within this government, do frequently (eſpecially at court times) ſet up ſtalls or booths in the town of Dover, for expoſing their goods to ſale, which, for want of proper regulations, do not only too much incumber ſome part of the town, but alſo often produce frays and diſorders; for the remedy whereof, *Be it further enacted by the authority aforeſaid*, That the Clerk of the Market for the ſaid town of Dover, already by this act appointed, or hereafter to be appointed by the Juſtices of the Court of Quarter Seſſions of the ſaid county, in manner and form as in the before-mentioned act is directed, ſhall and may, and he and they are hereby impowered and authoriſed to ſet up ſtalls or booths within the ſaid market ſquare, by virtue of this act to be laid out, and to lett out the ſame on

Clerk of the Market impowered to erect ſtalls, &c.

hire

hire for ſuch ſum or ſums of money as any three of the juſtices of the ſaid county ſhall direct. *And* for encouragement and ſatisfaction for his care, in executing the ſaid act, the ſaid Clerk for the time being, ſhall receive, and take to his own uſe, the whole hire of the ſaid ſtalls and booths ſo to be erected for the uſes aforeſaid; and that no perſon or perſons whatſoever, who are not an inhabitant or inhabitants of the county of Kent, ſhall expoſe goods to ſale in any ſtreet, alley, or ſquare of the ſaid town of Dover, except in the market ſquare only, and by the approbation of the Clerk, on penalty of forfeiting the ſum of Ten Shillings for every ſuch offence, to be recovered as other fines and forfeitures are by the ſaid act directed, one half to the uſe of the poor of the ſaid county, and the other half to the uſe of the ſaid Clerk.

Penalty on ſtrangers ſelling goods except in the market ſquare.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That an act of Aſſembly of this government, entituled, *An act for the amendment of an act for eſtabliſhing a market in the town of Dover, in the county of Kent, and in the town of Lewes, for the county of Suſſex*, is hereby repealed.

Former act repealed.

CHAP. CXXV. a.

An ACT *for regulating attachments within this government.* Repealed and ſupplied chap. 200. a. paſſed March 24, 1770.

25 Geo. II.

CHAP. CXXVI. a.

An ACT *againſt menacing, aſſault, and battery.*

25 Geo. II.

SECTION 1. BE *it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice*

CHAP. CXXVI.
25 Geo. II.

advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That whoſoever ſhall menace, aſſault, or beat, his or her parent, and ſhall be duly convicted thereof in any Court of Quarter Seſſions within this government, upon complaint firſt made by his or her parent, he, ſhe, or they, ſo offending, ſhall ſuffer impriſonment for any ſpace of time not exceeding eighteen months, during which time he or ſhe ſhall be kept at hard labour.

Puniſhment for ſuch as aſſault, &c. parents.

Aſſault and battery fineable at the diſcretion of the court.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons ſhall, at any time, after the publication of this act, commit an aſſault or battery on the perſon of another, and be duly convicted thereof in any Court of Quarter Seſſions within this government, he, ſhe, or they, ſo offending, and convicted as aforeſaid, ſhall be fined, at the diſcretion of the ſaid court before whom ſuch conviction is had, according to the heinouſneſs of the offence, which fine ſhall go to the uſe of the Governor for the time being, towards the ſupport of government.

Free Negroes, &c. convicted, to be fined, &c.

SECT. 3. *Provided always, and be it enacted by the authority aforeſaid,* That if any of the perſons convicted as aforeſaid, be a free Negro, or Mulatto, he, ſhe, or they, ſhall be fined by the court before whom ſuch conviction is had, as aforeſaid, in any ſum not exceeding Ten Pounds, and not leſs than Five Pounds, to be appropriated as aforeſaid; and for want of goods and chattels, to pay the ſaid fine, and coſt of proſecution, he, ſhe, or they, ſhall be adjudged to make ſatisfaction by ſervitude, for any term or time not exceeding four years, and be publicly diſpoſed of as a ſervant, by the Sheriff of the reſpective county where ſuch offence ſhall be committed.

Menacing or aſſaulting of Magiſtrates, fineable at diſcretion of the court.

SECT. 4. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons ſhall menace, aſſault, or beat, any Magiſtrate, or Juſtice of Peace of this government, in the execution of his office, and be duly convicted thereof, he, ſhe, or they, ſo offending, and convicted as aforeſaid, ſhall be fined at the diſcretion of the ſaid court, to be levied and applied as aforeſaid.

SECT.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any indented or adjudged ſervant, or ſervants, ſhall aſſault, or beat, his, her, or their maſter, or miſtreſs, and be legally convicted thereof by one credible witneſs at leaſt, beſides the oath or affirmation of his or her ſaid maſter or miſtreſs, before two Juſtices of the Peace for the county where ſuch offence ſhall be committed, ſuch ſervant or ſervants ſo offending, and convicted as aforeſaid, ſhall be adjudged by the ſaid juſtices, to ſerve his, her, or their maſter or miſtreſs, for every ſuch offence, after the expiration of their indenture, or adjudged time purſuant to law, any term or time not exceeding ſix months; and the juſtices, before whom ſuch conviction and adjudication as aforeſaid, ſhall be had, are hereby ordered to keep a fair book of record of the whole proceedings, which record ſhall be as available in law, as if the ſame ſervant had been adjudged by any Court of Record within this government. *And* that the ſaid juſtices, before whom ſuch conviction is had, and adjudication made, ſhall, for recording the ſame, and giving a tranſcript thereof, receive the ſum of Two Shillings and Six-pence each, to be paid by the maſter or miſtreſs requiring the ſame.

Penalty on ſervants aſſaulting their maſters, &c.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That if any Negro or Mulatto ſlave ſhall aſſault or beat any white perſon or perſons, he, ſhe, or they, ſo offending, being duly convicted thereof before one Juſtice of the Peace for the county where ſuch offence ſhall be committed, ſhall be adjudged by the ſaid juſtice to ſtand in the pillory, for any ſpace of time not exceeding two hours, and be publicly whipt with any number of laſhes not exceeding thirty-nine, on his, her, or their bare back, well laid on. *(b)*

Negroes, &c. aſſaulting white perſons, how to be puniſhed.

SECT. 7. *And be it further enacted*, That the law of this government, entituled, *An act againſt menacing, aſſault, and battery*, ſhall be, and is hereby repealed.

CHAP.

(b) One Negro or Mulatto ſlave aſſaulting another to be puniſhed by the ſentence of two Juſtices of the Peace for the county, &c. See chap. 188, a, ſect. 3. paſſed October 31, 1767.

CHAP. CXXVII.

25 Geo. II.

CHAP. CXXVII. a.

A Supplement to an act of General Aſſembly of this government, entituled, An act for acknowledging and recording of deeds. *(a)*

Preamble.

WHEREAS by the ſaid act it is directed, That where any deed or deeds, conveyance or conveyances, or Power of Attorney, for granting or conveying of any lands or tenements within this government, or Power of Attorney to acknowledge ſuch deed or deeds, conveyance or conveyances, ſhould thereafter be made or executed by any perſon or perſons out of this government, ſuch deed or deeds, conveyance or conveyances, or Power of Attorney, ſhould be proved by one or more of the witneſſes thereto, in open court, in the county where the lands or tenements lie, &c. *And whereas* it hath been found very inconvenient, as well as very difficult and expenſive, where deeds or other writings are executed out of this government, to procure the witneſſes thereto to come into the county where the lands lie, and prove the ſame in manner as by the ſaid act is required: For the remedying whereof,

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That all deeds and conveyances, and Powers of Attorney in the ſaid act mentioned, already made and executed, or hereafter to be made and executed, out of this government, and brought hither, and recorded in the county where the lands lie, the execution thereof being firſt proved by the oath or affirmation of one or more of the witneſſes thereunto, before the Juſtices of

Deeds, &c. proved before a Mayor, or chief Magiſtrate, &c. and certified &c. ſhall be as available as if proved in the proper county.

(a) For the original act, ſee before chap. 83, a, and ſee alſo ſect 3, thereof, and the note (*d*) there.

of the Court of Common Pleas, or any Mayor, Chief Magiſtrate, or officer, of the city, town, or county, where ſuch deeds, conveyances, or powers, are or ſhall be made and executed, and accordingly certified under the common or public ſeal of ſuch city, town, or county, ſhall be as good and available in law, to all intents and purpoſes, as if the ſame had been made, acknowledged and proved in the proper county where the lands lie in this government. *(b)*

SECT. 3. *And whereas*, for want of a due underſtanding of the laws of this government, heretofore made, relating to the acknowledgment of deeds and other writings, the Juſtices of the Court of Common Pleas of ſome of the counties within this government, have, as occaſion required, called Special Courts, and therein received the acknowledgment of ſundry deeds, under which many of the inhabitants of this government claim title to, and have quietly enjoyed poſſeſſion of the lands granted and conveyed by ſuch deeds: *Therefore*, for the quieting the minds of thoſe, who have purchaſed, enjoyed, and held, lands under ſuch deeds, and for confirming them in their rights and poſſeſſions, *Be it enacted by the authority aforeſaid*, That all deeds, conveyances, and other writings, that have heretofore been acknowledged before any three or more of the Juſtices of any Court of Common Pleas within this government, at any Special Court, by them called and held, ſhall be deemed, and are hereby declared to be as good and effectual in law, to all intents and purpoſes whatſoever, as if the ſame had been acknowledged in open Court of Common Pleas for the ſaid county, any law, uſage, or cuſtom to the contrary notwithſtanding. *Provided always*, That nothing in this act contained, ſhall be conſtrued, or deemed, to make good and valid any deed proved or acknowledged as aforeſaid, where any fraud in ſuch caſe can be made appear.

Deeds, &c. heretofore acknowledged before three juſtices, ſhall be deemed as good as if acknowledged in court.

SECT. 4. *And be it enacted by the authority aforeſaid*, That an act of General Aſſembly of this government, made

Former act repealed.

(b) A like proviſion as to taking the private examination of Feme-Coverts, parties to grants of lands in their own right, where ſhe reſides, and of the county in which ſuch lands lie, in chap. 218, a, paſſed April 12, 1773.

CHAP. CXXVII. 25 Geo. II.

made in the twenty-ſecond year of the reign of his preſent Majeſty, entituled, *A ſupplement to an act of General Aſſembly of this government*, entituled, *An act for recording and acknowledging of deeds*, ſhall be, and is hereby repealed.

CHAP. CXXVIII. a.

25 Geo. II.

An ACT *for the new appointment of Truſtees for the ſeveral General Loan Offices within this government.*

Preamble.

WHEREAS by an act of Aſſembly of this government, entituled, *An act for reprinting, exchanging, and re-emitting Twenty Thouſand Pounds of the bills of credit of this government*, paſſed in the twentieth year of the reign of his preſent Majeſty, Jehu Curtis, John M'Coole, and John Vance, of New-Caſtle county, gentlemen, were conſtituted Truſtees of the General Loan Office of the ſaid county of New-Caſtle; and John Brinkley and Thomas Green, gentlemen, were conſtituted Truſtees of the General Loan Office of Kent county, and Ryves Holt and Jacob Kollock, gentlemen, were conſtituted Truſtees of the General Loan Office of Suſſex county; *And whereas* the time limited by the ſaid act, for the continuance of the ſaid Truſtees in the exerciſe of their reſpective offices, will at the end of this Seſſion of Aſſembly expire, whereby a new appointment of Truſtees, to execute ſaid offices, is become neceſſary:

SECTION 1. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That Jehu Curtis, John Vance, and Richard M'William, of New-Caſtle county, gentlemen, are hereby nominated and appointed Truſtees of the General Loan Office for the county of New-Caſtle; and John Vining and Andrew Caldwell, of Kent county,

Truſtees appointed.

county, gentlemen, are hereby nominated and appointed Truſtees of the General Loan Office of the county of Kent; and Ryves Holt and Jacob Kollock, of Suſſex county, gentlemen, are hereby nominated and appointed Truſtees of the General Loan Office for the county of Suſſex. Which ſaid Truſtees ſhall and may have, hold, and enjoy, the ſame offices, for and during the term of four years next after their entering into the execution of their reſpective truſts as aforeſaid, and from thence to the end of the next Seſſion of Aſſembly. *And* the ſaid Truſtees are hereby authoriſed and impowered, immediately after the end of this Seſſion of Aſſembly, to enter upon the execution of their truſt, to which they are hereby appointed, in their reſpective counties, and to receive, reemit, and exchange, all bills of credit of this government, according to the directions of the act of Aſſembly aforeſaid; and to do and perform all other matters and things enjoined or required, or that ſhall be enjoined or required to be done by the ſeveral Truſtees, in their reſpective counties, by any act of Aſſembly, now made, or hereafter to be made, during their continuance in ſaid truſt and office, as fully and amply, to all intents and purpoſes, as the preſent or former Truſtees of the ſeveral General Loan Offices within this government, now can, or might, or could have done, by virtue of any of the acts of Aſſembly, by which the ſaid Truſtees therein named were appointed; and as fully as if the aforeſaid Jehu Curtis, John Vance, and Richard M'William, for the county of New-Caſtle; John Vining and Andrew Caldwell, for the county of Kent; and Ryves Holt, and Jacob Kollock, for the county of Suſſex; had been nominated, conſtituted, and appointed, Truſtees of the reſpective General Loan Offices within this government, in the bodies of ſaid acts of Aſſembly.

Their duty.

Sect. 2. *Provided always*, That each of the ſaid Truſtees in their reſpective counties, before they enter upon the execution of their truſt as aforeſaid, ſhall enter into a recognizance in the reſpective Courts of Quarter-Seſſions, or by bond to the Treaſurer of the ſaid county, in the ſum of One Thouſand Pounds, with two or more ſureties at the leaſt, conditioned as

Truſtees to enter into recognizance, &c.

by

CHAP. CXXVIII. 25 Geo. II.

by the ſaid act of Aſſembly is directed, with a further condition, to deliver up to their ſucceſſors in the ſaid truſt, the mortgage deeds, bonds, and warrants of attorney, plate, bills of credit, and other money, remaining in the ſaid office, and all books and papers appertaining to the ſame, at the expiration of their ſaid office, or when they ſhall be removed from their truſt; and ſhall take the oath or affirmation therein enjoined to be taken by the Truſtees, for the due performance of their reſpective truſts as aforeſaid.

In caſe of death, &c. the Aſſembly to nominate others.

SECT. 3. *And* if any of the above-mentioned Truſtees ſhall happen to die, or be removed, for any cauſe whatſoever, it ſhall and may be lawful to and for the General Aſſembly of this government, ſo often as need may require, to nominate and appoint ſome other fit perſon or perſons in the place and ſtead of ſuch Truſtee or Truſtees, ſo dead or removed as aforeſaid, who ſhall have the ſame power and authority as if he or they had been nominated and appointed by this act.

Truſtees impowered to receive the mortgage deeds, &c.

And the Truſtees aforeſaid are hereby further authoriſed and required, from and immediately after the end of this preſent Seſſion of Aſſembly, to demand, take, and receive, of the preſent Truſtees, and of every of them, and of every other perſon concerned therein, all mortgage deeds, bonds, and warrants of attorney, together with the books of record, and enrollments of the ſame, and all deeds and evidences, relating to or concerning the right or title of any lands, tenements or hereditaments, or other things, taken or received by any of the Truſtees of the reſpective offices, into the ſaid General Loan Offices, for the ſecurity of the payment of any ſum of money; and all the bills of credit, and other money, of what kind ſoever, in their, or any of their hands, belonging to any of the General Loan Offices of the reſpective counties within this government; and, on refuſal or neglect to deliver the ſame, to take all legal ways and means neceſſary for the recovery thereof, and, on receipt thereof, to account with the reſpective committees, as by the afore-mentioned act is directed.

Late Truſtees may have reſourſe to the records, &c.

SECT. 4. *Provided always*, That it ſhall and may be lawful for the late Truſtees, or any of them, in their reſpective counties, at any ſeaſonable time, or times,

times, to have recourſe to, and inſpection of, all mortgage deeds or inrollments of the ſame, with their indorſements, thereby to enable them, or either of them, to account with the General Aſſembly of this government, or their committees, or any other perſons appointed by the General Aſſembly of this government for that purpoſe, if any ſuch account ſhall be required.

CHAP. CXXIX. a.

A Supplementary act to the act, entituled, An act for the better regulation of ſervants and ſlaves, within this government. *(a)* 25 Geo. II.

WHEREAS the laws of this government, in regard to the regulation of ſervants and ſlaves, have been found to be defective, in not preſcribing any mode for the ſettling and determining in a ſhort and ſummary way any differences or diſputes that may ariſe between any maſter or miſtreſs, and his or her apprentice, indented or other ſervant: For the remedying of which inconveniencies and defects for the future, Preamble.

Be it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That the Juſtices of the reſpective Courts of Quarter-Seſſions within this government, upon any petition to them, to be preferred by any apprentice or apprentices, or his, her, or their parents, guardians, or next friends, or by any ſervant Juſtices, on petition, may ſummon maſters, &c.

(a) For the original act, ſee before chap. 77. a. 13 Geo. II. For a further ſupplement ſee after chap. 170. a. paſſed October 1760. And for another ſupplement, ſee chap. 188. a. paſſed October 31, 1767.

CHAP. CXXIX. 25 Geo. II.

vant againſt his or her maſter or miſtreſs, for or by reaſon of any breach of covenants, or other matter, cauſe, or thing whatſoever, it ſhall and may be lawful for the ſaid juſtices, to iſſue a ſummons againſt ſuch maſter or miſtreſs, and to cauſe him or her to come before them, to anſwer ſuch complaint; and, after hearing the proofs and allegations of the parties, to diſcharge any apprentice from his or her indenture, and bind him or her out to ſome other maſter or miſtreſs of the ſame trade, art and myſtery, if to the ſaid juſtices it ſhall ſeem meet and expedient; and likewiſe to order and compel any maſter or miſtreſs, to ſell and diſpoſe of the reſidue and remaining part of ſuch ſervant's indented time to ſome other perſon or perſons, to be approved of by one or more of the ſaid juſtices, or to make ſuch other order or decree between any maſter or miſtreſs, and his or her apprentice, indented or other ſervant, as to them ſhall ſeem agreeable to equity and good conſcience; and to force obedience to ſuch their judgment and decree, by committing the body of the perſon or perſons refuſing, or neglecting to comply therewith.

and diſcharge apprentices, &c.

CHAP. CXXX. a.

25 Geo. II. *An* ACT *to limit the continuance of actions in the reſpective Courts of Common Pleas, in this government.*

Preamble.

WHEREAS the long continuance of actions in the ſeveral Courts of Common Pleas within this government, hath been attended with great evils, and many perſons, by means thereof, have been kept out of their juſt rights: For the remedy whereof for the future,

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties*

ties, in General Aſſembly met, and by the authority of the ſame, That in all actions hereafter to be commenced in any Court of Common Pleas within this government, where the plaintiff or plaintiffs ſhall ſend a copy of the declaration, with the writ, and cauſe the ſame to be ſerved on, or delivered to, the defendant or defendants, or left at the laſt place of his, her, or their abode, at leaſt twenty days before the court to which ſuch writ is returnable, it ſhall and may be lawful for the juſtices of ſuch court, on due proof thereof, to make a rule for the defendant, or defendants, to file his, her, or their plea, or pleas, by the ſecond day of the next ſucceeding term after ſuch court; and if the defendant or defendants, ſhall neglect or refuſe to comply with ſuch rule, the juſtices of ſuch court ſhall and may proceed to render judgment againſt him, her, or them, with coſts of ſuit, for ſuch neglect or refuſal, unleſs he, ſhe, or they, can ſhew good cauſe, upon oath or affirmation, why a further day ſhould be given, and thereupon to award a Writ of Enquiry, if the caſe may require it.

Court may make a rule for defendant to plead, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That in all actions, hereafter to be commenced in any Court of Common Pleas within this government, the plaintiff, or plaintiffs, ſhall file his, her, or their declaration, by the ſecond day of the next term ſucceeding the court to which the writ is returnable; and if the plaintiff or plaintiffs ſhall neglect or refuſe to file his, her, or their declaration, within the time aforeſaid, then the juſtices of ſuch court are hereby impowered and directed to cauſe judgment to be entered for the defendant, with coſts, againſt the plaintiff or plaintiffs, for ſuch neglect or refuſal. But if the plaintiff or plaintiffs ſhall file his, her, or their declaration within the time aforeſaid, then the juſtices aforeſaid ſhall make a rule for the defendant, to file his, her, or their plea, by the ſecond day of the next term after filing the ſaid declaration, and, on neglect or refuſal, to comply with ſuch rule, ſhall give judgment againſt the defendant, or defendants, in manner above-mentioned, unleſs ſufficient cauſe ſhall be ſhewn in manner aforeſaid.

Plaintiff neglecting to file declaration in due time, judgment may be entered for defendant, &c.

Defendant neglecting, &c.

SECT.

CHAP. CXXX.

25 Geo. II.

No action to be continued longer than the fourth term, unleſs, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That no action hereafter to be commenced as aforeſaid, may or ſhall be continued longer than the fourth term after ſuch action brought, and then the parties ſhall be obliged to come to trial, unleſs it ſhall happen that ſome material evidence is wanting, and out of the reach of the proceſs of the court, or ſome other ſpecial cauſe ſhall be aſſigned, to the ſatisfaction of the court, all which matters and things ſhall be made out to the court by affidavit of the party, plaintiff, or defendant, in ſuch ſuit. And in ſuch caſes the juſtices may direct the trial of the ſaid cauſe to be put off to ſome ſucceeding court.

Former act repealed.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That an act of Aſſembly of this government, made in the twenty-ſecond year of the reign of his preſent Majeſty, entituled, *An act to limit the continuance of actions in the ſeveral Courts of Common Pleas within this government*, ſhall be, and is hereby repealed, made null and void.

CHAP. CXXXI. a.

25 Geo. II.

An ACT *for erecting public bridges, cauſeways, and laying out and maintaining highways. (a)*

Preamble.

WHEREAS nothing more contributes to the eaſe, ſafety, and conveniency of travellers, than the erecting of bridges, cauſeways, and keeping in

(a) For ſeveral ſubſequent proviſions and alterations in this act, See as to the county of New-Caſtle, chap. 180. a. paſſed November 1, 1762, for ſtraitning the roads through that county from the line of Cheſter county to that of Kent, &c.

A ſupplementary act thereto, chap. 184. a. paſſed March 31, 1764, for a review of ſuch roads and their eſtabliſhment.—A further ſupplement, chap. 195. a. paſſed June 16, 1769, altering that part of the then King's highway from Whiteclay Creek Bridge to Chriſtiana Bridge.

And another further ſupplement, chap. 211. a. paſſed June 13, 1772, directing by whom the owners of St. Georges Mill-dam are to be paid Six Pounds yearly, to enable them to keep it in good order as a road. That water-wheels of mills near the roads be concealed by ſheds, &c. That Overſeers may open drains through lands adjoining: And that gravel, ſand or ſtones may be taken therefrom.

As to the counties of Kent and Suſſex, ſee chap. 176. a. paſſed October 31, 1761, eſtabliſhing roads leading from Saliſbury town, at the run of Duck-Creek and the line of New-Caſtle county, by Dover, through Kent and Suſſex counties, to Lewes

in good repair the highways and roads of each particular government,

SECTION 2. *BE it therefore enacted by the honorable James Hamilton, esq. with his Majesty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Castle, Kent, and Sussex, upon Delaware, and province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties, in General Assembly met, and by the authority of the same,* That all King's roads and highways, and all such other roads as may be deemed necessary for the ease and advantage of the inhabitants of this government, and travellers, shall be laid out by order of the Justices of the Peace, at the Court of Quarter Sessions, within each respective county, where the application shall be made in manner as herein-after is directed. *(b)*

Highways, &c. to be laid out, by order of the justices.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the Justices of each respective Court of Quarter Sessions within this government, are hereby impowered and required, in May Sessions, yearly, and every year, to nominate and appoint in each of the hundreds of their respective counties, one or more discreet and substantial inhabitant, or inhabitants, to be Overseer or Overseers of the highways, causeways, and bridges, of the several parts of their respective hundreds, for the ensuing year, by warrant from under the seal of the said court, signed by the Clerk of the Peace. *(c)*

Justices to appoint Overseers of highways and bridges, &c.

SECT. 4. *And be it further enacted by the authority aforesaid,* That all King's roads or highways within this government, shall be of the breadth of forty feet,

Breadth of highways, &c.

Town, &c. and from the Court House then there to Frame's saw-mill, thence back to the dwelling of John Clows, jun. (head of the Broad-hill) as public or King's roads, liable to be altered under the direction of the Courts of Quarter Sessions.

Then as to the county of Kent—by a special act, chap. 99. c. passed February 9, 1796, wherein the greater part of the system in this chap. 131. a. and the said chap. 176. a. is altered and many new regulations made. And then as to the county of Sussex, by another special act, chap. 100. c. passed the same 9th February, 1796. wherein a system somewhat different from that for Kent county is adopted.

(b) See chap. 180. a. sect. 7—chap. 184. a. sect. 3, 6—chap. 99. c. sect. 1, 2, 26. chap. 100. c. sect. 1, 4.

(c) See chap. 99. c. sect. 4, 8—chap. 100. c. sect. 4, 8.

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whereof thirty feet ſhall be grubbed and cleared, and the branches and limbs of trees adjoining to the ſaid roads or highways, ſhall be cut down, at leaſt ten feet from the ground, and all dead trees ſtanding near the ſaid roads or highways, if by falling they might reach the ſame, ſhall be cut down, and that all public roads, which are not properly King's roads or highways, ſhall be of the breadth of thirty feet, twenty feet of which ſhall be grubbed and cleared in like manner as King's roads or highways. *(d)*

Cauſeways to be made.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That all roads into and out of all ſwamps, creeks, runs, and ſunken lands, that fall within the limits aforeſaid, ſhall be ſecured by good cauſeways, and that all cauſeways and bridges ſhall be of the breadth of twelve feet at leaſt, and bridges ſtanding over deep water, ſhall be railed in at the diſtance of ten feet from rail to rail, and of the height of three feet from the plank or floor of the bridge. *(e)*

Bridges by whom to be repaired.

SECT. 6. *And be it further enacted by the authority foreſaid*, That all bridges over creeks, and deep waters, lying on the King's highways, leading through any of the counties aforeſaid, ſhall be repaired and maintained at the common expence of the reſpective county where ſuch bridges are erected. *(f)*

SECT. 7. *Provided nevertheleſs*, That ſuch perſons as by any act of Aſſembly of this government are entituled to the benefit of any bridge or bridges lying over deep waters or creeks, and the cauſeways leading thereto, built at their own expence, or at the expence of their predeceſſors, or aſſignors, ſhall enjoy all and every the privileges and advantages already granted them, they maintaining and keeping in repair ſuch bridges and cauſeways as aforeſaid.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That every perſon or perſons, who, for his,

(d) See chap. 176. a. ſect. 2—chap. 180. a. ſect. 3—chap. 99. c. ſect. 9—chap. 100. c. ſect. 2.

(e) See chap. 176. a. ſect. 3—chap. 214. a.—chap. 99. c. ſects. 9, 18, 19, 20, 24.—chap. 100. c. ſect. 5, 9, 11, 16, 20, 21, 22, 26, 27.

(f) See references at preceding ſection.

his, her, or their own benefit, already hath or have, or hereafter ſhall cut through the King's highway, or other public road, any mill-race, ditch, drain, or other water-courſe, he, ſhe, or they, ſhall be obliged to make, ſupport, maintain, and repair, a good and ſufficient way over the ſame, for the convenient paſſage of men, horſes, carts, and other carriages, under the penalty of Five Pounds for each offence, to be recovered by bill, plaint, or information.

Where mill races, &c. croſs a public road, the owner to keep the way in repair.

Penalty.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That all bridges heretofore erected in the ſeveral hundreds of this government, or public roads, which are not properly King's roads, ſhall be repaired and maintained by the inhabitants reſiding in the reſpective hundreds where ſuch bridge or bridges are erected.

Bridges not in the King's roads, by whom to be repaired.

SECT. 10. *Provided nevertheleſs*, That where any bridge is already erected over any creek or deep water, which is a boundary between two hundreds, the inhabitants of each hundred ſhall and are hereby obliged to ſupport equally the ſaid bridge, and the cauſeway leading to the ſame on either ſide. *(g)*

SECT. 11. *And* in order that bridges and cauſeways may be eaſier built and ſupported, *Be it enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Overſeers in their reſpective hundreds, to fall, cut down, and carry away, all ſuch timber and trees as ſtand within the limits of the roads aforeſaid, for and towards the ſupport of the bridges and cauſeways of the ſame. And in caſe no ſuch timber or trees can there be found, then it ſhall and may be lawful for the reſpective Overſeers, to cauſe ſuch trees or timber, as ſhall be neceſſary for building and repairing bridges and cauſeways, ſtanding or growing on any lands that are moſt commodiouſly ſituated for ſuch uſe, to be viewed and appraiſed by two impartial freeholders of the vicinage, nominated and appointed by the ſaid Overſeer or Overſeers, they being firſt ſworn or affirmed before ſome Juſtice of the Peace, to duly appraiſe the ſame in the preſence of the owner thereof, if he will attend (after notice given him by the Overſeers)

Power to Overſeers, of cutting timber, &c.

Timber to be appraiſed and paid for.

(g) See chap. 99, c. ſect. 13—chap. 100, c. ſect. 16.

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ſeers) to be cut down, and carried off for the uſe before mentioned, and the appraiſed value thereof to be paid to the owner or owners, and to be levied as other county rates and levies are.

Overſeers ſued, may plead the general iſſue,

SECT. 12. *And* if the ſaid Overſeer or Overſeers ſhall be ſued for cutting down any timber for the uſes as above-mentioned, he or they may plead the general iſſue, and give this act in evidence. And if the plaintiff be non-ſuited, diſcontinue his action, or a verdict paſs againſt him, he ſhall pay the defendant treble coſts. *(b)*

Proceedings in obtaining new roads.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That where application ſhall be made to the Juſtices in their Court of Quarter Seſſions of their reſpective counties, by any perſon or perſons, that a road is neceſſary or wanting, the ſaid juſtices are hereby required and impowered to nominate and appoint five good and ſubſtantial freeholders of the neighbourhood, to view and examine whether ſuch road is neceſſary and convenient. And if, upon viewing the premiſes, the ſaid freeholders, or a majority of them, ſhall think ſuch road fit and convenient, then they are hereby ordered to lay out the ſame, and make return thereof to the Juſtices of the ſucceeding Court of Quarter Seſſions, to be held in the county where ſuch application is made, deſcribing, in writing under their hands, the ſaid road, with courſes and diſtances, as nigh as can be eſtimated; and if the ſaid return ſhall be approved of by the ſaid juſtices, they ſhall cauſe the ſame to be entered on record, and from thenceforth it ſhall be deemed, taken, and allowed, to be a public road; and whenever it ſhall be found neceſſary and convenient by ſuch five freeholders, or any three of them, that ſuch road ſhall run or go through the improved lands of any perſon or perſons, then, and in ſuch caſe, ſuch five freeholders, or any three of them, ſhall, together with the return of the view of ſuch road, make return to the reſpective Courts of Quarter Seſſions, upon oath or affirmation, to be taken before any Juſtice of the Peace of the county where ſuch lands lie, of the damages that may be

See the ſeveral acts before referred to.

Damage to improved lands, how to be ſettled, &c.

(b) See chap. 99, c, ſect. 22—chap. 100, c, ſect. 24.

be ſuſtained by ſuch perſon or perſons as ſhall be owners of ſuch improved lands, by reaſon or means of laying out ſuch road through the ſame. And the road ſo returned ſhall not be confirmed until the perſon or perſons petitioning for the ſame, ſhall pay to the owner or owners of ſuch improved lands all ſuch damages as he, ſhe, or they, ſhall have ſuſtained, by the valuation of ſuch freeholders, or any three of them, as aforeſaid. And the petitioner or petitioners for ſuch road, ſhall pay and ſatisfy all coſts and charges whatſoever, that ſhall or may happen to accrue for laying out ſuch road. And the ſaid freeholders, or any three of them, ſo nominated and appointed by the juſtices as aforeſaid, ſhall receive and have from the parties petitioning for any road or roads as above mentioned, the ſum of Five Shillings each, for every day they ſhall attend the viewing and laying out the ſame. And any of the ſaid freeholders ſo nominated and appointed by the juſtices as aforeſaid, neglecting or refuſing to comply with the directions of this act (unleſs hindered by ſickneſs, or other unavoidable accidents) every ſuch freeholder ſo neglecting or refuſing, and being duly convicted thereof, ſhall, for ſuch neglect or refuſal, forfeit the ſum of Ten Shillings, to be levied, together with coſts, by diſtreſs and ſale of the offender's goods and chattels, by warrant under the hand and ſeal of any one Juſtice of the Peace of the county where ſuch offender ſhall reſide. *(i)*

Coſts, by whom to be paid.

Penalty on freeholders neglecting, &c.

SECT. 14. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall preſume to obſtruct any of the ſaid highways or other roads heretofore laid out, or hereafter to be laid out, and allowed of as aforeſaid, or to turn the ſame, without leave of the Court of Quarter Seſſions firſt had and obtained, or ſhall commit any nuiſance therein, by falling of trees, making fences, or any other way, and do not remove the ſame forthwith, ſuch perſon or perſons ſo offending, and being duly convicted thereof, ſhall be fined in the ſum of Five Pounds, to be recovered in manner aforeſaid, and to be applied by the court for the clearing and removing ſuch nuiſances, and

Penalty on obſtructing high roads.

(i) See chap. 176. a. ſect 7—chap. 184. a. ſect. 3—chap. 99. c. ſect. 3. 6—chap. 100. c. ſect. 3, 6, 27.

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and the remainder thereof (if any there be) ſhall be applied by the ſaid court, to repairing and clearing other roads within the hundred where the offence ſhall be committed. *(k)*

Overſeers to give notice to the taxable inhabitants, &c.

SECT. 15. *And* to the end that highways may be kept in good order and repair, *Be it further enacted by the authority aforeſaid*, That all and every Overſeer and Overſeers of every hundred, within the reſpective counties of this government, being firſt by the juſtices appointed as aforeſaid, may and are hereby reſpectively impowered and required to give notice to every taxable perſon within their reſpective diſtricts, in manner and form following; *That is to ſay*, every Overſeer appointed as aforeſaid, ſhall fix public advertiſements in writing, at five of the moſt noted places in his diſtrict, at leaſt ten days before the intended day of meeting, advertiſing and requiring each and every perſon in his ſaid diſtrict, taxed or rated at any ſum

Number of men to be ſent, &c.

not exceeding Thirty Pounds, to find one ſufficient man to be and appear at the place he the ſaid Overſeer ſhall in the ſaid advertiſement appoint, in order to do and perform ſuch ſervices as the ſaid Overſeer, in the diſcharge of his duty, ſhall direct; and every perſon taxed or rated at any ſum not exceeding Sixty Pounds, nor under Thirty-one Pounds, to find two ſufficient men for the purpoſes aforeſaid; and any perſon taxed or rated at any ſum exceeding Sixty Pounds, to find three ſufficient men for the purpoſes aforeſaid; which ſaid notice ſhall be deemed a ſufficient warning; and

Penalty on not ſending men, &c.

every taxable, who neglects, refuſes, or delays, to appear after notice given as aforeſaid, or to ſtand a ſufficient man or men, according to the directions of this act, with proper tools and inſtruments, to do and perform ſuch ſervices as the Overſeer or Overſeers ſhall require and direct, from one hour after ſun-riſe until one hour before the ſetting of the ſame (meal times excepted) ſhall forfeit for the delinquency, or non-performance of the duties and ſervices above required and directed, any ſum not exceeding Five Shillings, nor under Two Shillings and Six-pence, to be levied as aforeſaid; and the

(k) See chap. 176. a. ſect. 5—chap. 180. a. ſect. 11—chap. 184. a. ſect. 11—chap. 99. c. ſect. 23—chap. 100. c. ſect. 25.

the Overſeers return of each delinquent or delinquents, upon his oath or affirmation, to any one Juſtice of the Peace of the county where he reſides, ſhall be deemed ſufficient proof for the conviction. *(l)*

Penalty on Overſeer neglecting, &c.

SECT. 16. *And be it further enacted by the authority aforeſaid*, That any perſon appointed Overſeer, as in this act is directed, refuſing or neglecting the performance of his duty as Overſeer, ſhall forfeit, for ſuch his refuſal or neglect, the ſum of Four Pounds, to be recovered by bill, plaint, or information. *(m)*

Fines how to be appropriated.

SECT. 17. *And be it further enacted by the authority aforeſaid*, That all and every the fines and forfeitures in this act laid, and to be recovered as aforeſaid, and not herein before appropriated, ſhall be paid to the Treaſurer of the county where ſuch fines and forfeitures ſhall be hereafter levied for and towards the defraying the charges in repairing and maintaining the bridges lying on the King's highways as aforeſaid. And to prevent any difference that may ariſe amongſt neighbours about roads or cauſeways already laid out by order of the Governor and Council, or any of the courts of this government, and which are or ſhall be entered upon record, either before or after the making and publiſhing this act, all ſuch roads and cauſeways as aforeſaid, ſhall be taken, deemed, and allowed to be free, open, and lawful common roads and cart-ways, from the time of their being laid out and recorded as aforeſaid. *(n)*

Former acts repealed.

SECT. 18. *And be it further enacted*, That all acts of Aſſembly of this government, for laying out roads, and for erecting, repairing, and maintaining bridges, cauſeways, and highways, within this government, ſhall be, and are hereby repealed, madenull and void, except an act of Aſſembly of this government, entituled, *An act for repairing and amending the highways, roads, cauſewavs, and bridges, within the hundred of New-Caſtle*, which is hereby declared to be in full force,

(l) See chap. 176. a. ſect. 4—chap. 180. a. ſect. 8—chap. 184. a. ſect. 7, 8—chap. 99. c. ſect. 9, 10, 12, 14, 19, 20—chap. 100. c. ſect. 5, 9, 12, 13, 14, 15, 16, 17, 20, 21, 22.

(m) See chap. 176. a. ſect. 5—chap. 180. a. ſect, 10—chap. 184. a. ſect. 10—chap. 99. c. ſect. 24—chap. 100. c. ſect. 26.

(n) See chap. 176. a. ſect. 5—chap. 180. a. ſect. 10—chap. 184. a. ſect. 10—chap. 99. c, ſect, 5, 8, 9, 15, 18, 23, 24—chap. 100. c. ſect. 8, 9, 13, 18, 25, 26.

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force, any thing in this act contained to the contrary in any wiſe notwithſtanding. *(o)*

CHAP. CXXXII. a.

25 Geo. II. *An* ACT *to prevent ſwine running at large within the bounds of Lewes Town, in Suſſex county*

Preamble.

WHEREAS the inhabitants of the town of Lewes, and parts adjacent, have heretofore ſuffered great damage by ſwine running at large, without rings and yokes,

SECTION. 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act, no ſwine ſhall be allowed or permitted to run at large, without ſufficient rings and yokes, on any of the lands and marſhes within the limits and bounds following, *viz.* Beginning at the mouth of Pagan or Canary Creek, thence up the ſame to the public road; thence by a right line to the head of Pothook's creek; thence down the ſame to the mouth thereof; and thence down Lewes Creek, to the mouth of Pagan or Canary Creek aforeſaid. And if at any time, after the publication of this act, any ſwine ſhall be found at large within the above-mentioned bounds and limits, not ſufficiently ringed and yoked as aforeſaid, unleſs on the lands or marſhes of the owner thereof, it ſhall and may be lawful for any perſon, being a freeholder, to take up, and ſecure, or kill the ſame ſwine ſo found upon his, her, or their lands and marſhes, without rings and yokes, as aforeſaid, and ſhall give notice to the owner or owners thereof, if known;

Swine not to run at large without rings and yokes, &c.

Proceedings directed concerning ſwine found running at large, &c.

(o) See before chap. 111, a.

known; which owner or owners ſhall make good and pay all damages, by the party taking up the ſaid ſwine, ſuſtained, as ſhall be adjudged by two ſufficient freeholders, upon oath or affirmation; which damages ſo adjudged as aforeſaid, ſhall be levied by diſtreſs and ſale of the offenders goods and chattels, and paid to the party injured: But if the party or parties injured by ſuch ſwine ſhall kill all or any ſuch ſwine, he, ſhe, or they, ſhall inform the neareſt Juſtice of the Peace of the ſame county, whereupon the ſame juſtice, by warrant under his hand and ſeal, directed to any of the Conſtables of Lewes, ſhall cauſe the ſwine ſo killed as aforeſaid, immediately to be appraiſed by two ſufficient freeholders, upon their oath or affirmation; and the ſaid Conſtable ſhall publicly advertiſe the marks thereof, and ſell the ſaid ſwine ſo killed, to the higheſt bidder, and deliver the money ariſing on ſuch ſale into the hands of the Juſtice of Peace who granted the warrant, there to remain for the benefit of the owner, after deducting legal coſts: But if the owner or owners ſhall neglect to claim the money due on ſuch ſale, after deducting legal coſts, as aforeſaid, within the ſpace of ſix months, then, and in ſuch caſe, the ſaid juſtice ſhall pay to the Treaſurer of the county the ſum remaining in his hands, for the uſe of the poor, and the owner is hereby utterly barred, after the ſix months as aforeſaid, from claiming any part of the ſaid ſum of money.

Swine not to be driven into other parts, without yokes, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That no freeholder or freeholders, reſiding within the limits aforeſaid, ſhall be allowed or permitted to drive or carry any ſwine out of the limits aforeſaid, which were bred or raiſed therein, without rings and yokes, into any other part of the county of Suſſex aforeſaid, under the penalty in this act before provided againſt ſwine running at large, without rings and yokes, within the limits aforeſaid, to be diſpoſed of in manner aforeſaid.

SECT. 4. *And be it enacted by the authority aforeſaid*, That if any perſon or perſons ſhall be ſued for doing any thing according to the directions of this act, he, ſhe, or they, may plead the general iſſue, and give

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this act in evidence, as a juſtification, and ſhall recover treble coſts of the plaintiff or plaintiffs, any law, cuſtom, or uſage to the contrary notwithſtanding.

Former acts repealed.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That all acts of Aſſembly of this government, heretofore made for preventing ſwine running at large within the limits aforeſaid, ſo far as the ſame may relate to ſwine, ſhall be, and are hereby repealed, made null and void.

CHAP. CXXXIII. a.

25 Geo. II. *An* ACT *for the killing of ſquirrels in the county of Kent.* Expired by its own limitation, being for three years.

CHAP. CXXXIV. a.

25 George II. *An* ACT *for the regulation of toll.*

WHEREAS the inhabitants of this government do greatly ſuffer, by reaſon of the exorbitant toll taken by millers within the ſame, for the grinding of grain: Therefore, for the better and more juſt regulation of the ſame for the future,

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That no perſon or perſons, keeping a mill or mills, within this government, ſhall, after the publication of this act, preſume, on any pretence whatſoever, to take more than the tenth part of each buſhel of wheat, rye, Indian corn, buckwheat, or malt, as toll, for grinding the ſame, within the county of New-Caſtle; or more than the tenth part, for

Quantity of toll to be taken by millers regulated.

grinding

grinding each buſhel of wheat or malt, and the eighth part of Indian corn, rye, and buckwheat, within the counties of Kent and Suſſex; and if any miller or millers, within this government, ſhall take, or cauſe to be taken, any greater or larger toll than is allowed by this act, he or they ſo offending, being legally convicted thereof, ſhall be adjudged to pay double damages to the party injured, with coſts of proſecution, and ſhall be fined the ſum of Five Pounds, one moiety whereof ſhall go to the Governor for the time being, towards ſupport of government, and the other moiety to the party grieved, to be recovered by bill, plaint, or information, wherein no eſſoign, protection, or wager of law, ſhall be allowed.

Former act repealed.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That an act for the regulation of toll, made in the twelfth year of his late Majeſty's reign, is hereby repealed, made null and void.

CHAP. CXXXV. a.

A Supplementary act to an act, entituled, "An Act for regulating and eſtabliſhing fees within this government." Repealed in chap. 204. a. ſect. 39. 25 Geo. II.

CHAP. CXXXVI. a.

An ACT *about contracts and aſſumptions.* 25 Geo. II.

SECTION 1. BE *it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That all promiſes and aſſumptions, whereby any perſon or perſons ſhall undertake

to

CHAP. CXXXVI.

25 Geo. II.

to anſwer or pay for the default, debt, or miſcarriage, of another, any ſum under Forty Shillings, being proved by the oath or affirmation of the perſon or perſons to whom ſuch promiſe and aſſumption ſhall be made, are hereby declared to be good and available in law, to charge the party or parties making ſuch promiſe and aſſumption.

Aſſumptions proved on oath, &c. ſhall be available, &c,

Executors, &c. not to be charged, except the aſſumption be proved, &c.

Sect. 2. *And be it further enacted by the authority aforeſaid*, That no action ſhall be brought, whereby to charge any executor or adminiſtrator, upon any ſpecial promiſe, to anſwer damages out of his own eſtate; or whereby to charge any defendant, upon any ſpecial promiſe, to anſwer for the debt, default, or miſcarriage, of another perſon, of the value of Forty Shillings, and not exceeding Ten Pounds, unleſs ſuch promiſe and aſſumption ſhall be proved by the oath or affirmation of one credible witneſs, or ſome memorandum, or note in writing, ſhall be ſigned by the party to be charged therewith.

What agreements are to be in writing.

Sect. 3. *And be it further enacted by the authority aforeſaid*, That no action ſhall be brought, whereby to charge any perſon or perſons, upon any agreement made upon conſideration of marriage, or upon any contract, or ſale of lands, tenements, or hereditaments, or any intereſt in, or concerning them, or upon any agreement that is not to be performed within the ſpace of one year from the making thereof; or to charge any perſon or perſons, whereby to anſwer for the debt, default, or miſcarriage, of another, in any ſum of the value of Ten Pounds and upwards, unleſs the ſame ſhall be reduced to writing, or ſome memorandum or note thereof ſhall be ſigned by the party or parties to be charged therewith, or ſome other perſon thereunto by him or them lawfully authorized, except for goods, wares, and merchandizes ſold and delivered, and other matters, which be and are properly chargeable in an account; in which caſe the oath or affirmation of the plaintiff, together with a book regularly and fairly kept, *(a)* ſhall be allowed in all caſes to be given in evidence,

in

(a) See before in chap. 64. a. ſect. 1.

in order to charge the defendant or defendants with the ſum or ſums therein contained.

CHAP. CXXXVI.

25 Geo. II.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That an act of Aſſembly of this government, entituled, *An act about contracts and aſſumptions*, ſhall be, and is hereby repealed.

Former acts repealed.

CHAP. CXXXVII. a.

A Supplementary act to An act for raiſing county rates and levies. 25 Geo. II.

WHEREAS an act of Aſſembly of this government, entituled, *An act for raiſing county rates and levies*, hath been found very defective, by omitting to direct in what manner the reſpective county Treaſurers within this government ſhall be elected and appointed, and how long they ſhall continue in the enjoyment of their reſpective offices: For the remedying of which for the future, Preamble.

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That the Juſtices, eight Grand Jurymen, and Aſſeſſors, in the ſeveral counties of this government, or as many of them as will attend at the next enſuing Courts of Appeal, to be held in the ſaid counties reſpectively, ſhall and are hereby required to elect, nominate and appoint one good and ſubſtantial freeholder in each county, to be their Treaſurer, who, before he ſhall enter into the ſaid office, ſhall give bond, with ſurety or ſureties, in manner and form as is directed and preſcribed by the ſaid act, *[a]* for raiſing county rates and levies, who is hereby veſted with

Juſtices to appoint a county Treaſurer, who

ſhall give bond &c.

[a] See before chap. 102. a. ſect. 12. of the original act.

CHAP. CXXXVII. 25 Geo. II.

with all the powers and authority, and entitled to all the benefits and advantages by the ſaid act to ſuch officer allowed and given.

Treaſurers to continue three years, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the Treaſurers ſo to be elected, ſhall hold and enjoy their reſpective offices for the term of three years, and no longer, unleſs they ſhall be re-elected; but the ſaid Juſtices, Grand Jurymen, and Aſſeſſors, for the time being, ſhall proceed to a new choice at the expiration of every three years. *And* in caſe of the death or removal of any Treaſurer within the ſaid time, then the Juſtices of the Peace of the proper counties, for the time being, or the major part of them, ſhall appoint another, to ſucceed him, for the reſidue of the ſaid term, who ſhall give ſecurity in manner aforeſaid.

Court of Appeal not to be held on Chriſtmas Day.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That if any day, on which the Court of Appeal is appointed to be within the reſpective counties of this government, by the aforeſaid act, for raiſing county rates and levies, ſhall happen to be Chriſtmas Day, then, and in ſuch caſe, ſuch court ſhall be held on the day next following, and not otherwiſe, any law, cuſtom, or uſage to the contrary in any wiſe notwithſtanding.

CHAP. CXXXVIII. a.

25 Geo. II.

An ACT *for regulating the ferry over Chriſtiana creek, and the bridge over Brandywine, in New-Caſtle county.*

This act ſo far as the ſame reſpects the ferry over Chriſtiana creek, repealed and ſupplied in chap. 63. c. paſſed Feb. 8, 1794. And as to the bridge then over Brandywine, (called Vandever's bridge) become obſolete, the ſame being deſtroyed, and a new bridge erected at the public expenſe higher up the Brandywine on the public road there, eſtabliſhed under the act in chap. 184. a.

CHAP.

CHAP. CXXXIX. a.

CHAP. CXXXIX.

25 Geo. II.

An ACT *for barring eſtates tail within this government. (a)*

Preamble.

WHEREAS the intailing of eſtates within this government, would introduce perpetuities, prevent the improvement of ſuch eſtates, and diſable tenants in tail from making proviſion for the younger branches of their families: *And whereas* it hath been made a doubt, whether eſtates tail can legally be barred or docked, by fines and common recoveries ſuffered within this government, in like manner as they may in that part of Great Britain called England: For the remedying whereof for the future,

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That all fines and common recoveries heretofore levied and ſuffered within this government, or which at any time hereafter ſhall or may be levied or ſuffered therein, in purſuance of, or according to, the common or Statute Laws of that part of Great Britain called England, in any of the Supreme Courts of this government, or in any of the Courts of Common Pleas within the county where the lands, tenements, and hereditaments intailed, do, or ſhall lie, ſhall be, and are hereby declared to be as good and available in law, to all intents, conſtructions, and purpoſes, for the barring eſtates ſo intailed as aforeſaid, as fines and common recoveries of land, tenements, and hereditaments, ſuffered or levied in that part of Great Britain called England, may or can be.

Fines and recoveries declared to be good and valid.

SECT.

(a) See "An act for docking eſtates tail," paſſed Feb. 2, 1793, chap. 2. c. enabling tenants in tail to grant, &c. by like form of conveyance as tenants in fee ſimple may do, and to have the like effect as a common recovery.

CHAP. CXXXIX. 25 Geo. II.

SECT. 3. *Provided always*, That it ſhall and may be lawful for any heir at law, or other perſon or perſons claiming any right in the ſaid lands, tenements, or hereditaments, either by Appeal, or Writ of Error, as the caſe may require, to reverſe ſuch fines or recoveries, for any error or errors, which heretofore have, or hereafter may happen in levying or ſuffering the ſame.

CHAP. CXL. a.

25 Geo. II. *An* ACT *impowering James Gorrell, Benjamin Chew, and Robert Willcocks, of Kent county, gentlemen, to ſell and diſpoſe of all the lots of ground within the town of Dover, in the ſaid county, as have not hitherto been ſold and diſpoſed of; and alſo to confirm to the preſent poſſeſſors all ſuch lots as have been heretofore purchaſed, within the ſaid town, from the former Truſtees, and which have not been duly conveyed to them.*

Preamble. WHEREAS by an act of General Aſſembly of this government, entituled, *An act appointing perſons to lay out two hundred acres of land in lots adjoining to the Court Houſe of the county of Kent, and to diſpoſe of the ſame, to the uſe of the public*, Benjamin Shurmer, William Brinkley, and Richard Richardſon, of the ſaid county, gentlemen, or any two of them, were impowered and appointed to ſurvey, and lay out into lots, a certain tract of land in the ſaid county, adjoining the Court Houſe of the ſaid county, and purchaſed by the people thereof, and commonly called the town of Dover, in ſuch meaſures and proportions as to them ſhould ſeem meet and convenient, and the ſaid lots ſo ſurveyed and laid out, to diſpoſe of and ſell to ſuch perſons as ſhould be willing to purchaſe the ſame; and further, to execute all ſuch deeds and conveyances for the ſame, as ſhould be neceſſary and requiſite, as by the ſaid recited act may appear; *And whereas* the aforeſaid Benjamin Shurmer, William Brinkley, and Richard Richardſon, afterwards died, and many of the lots of ground, within the ſaid town, remained

CHAP. CXL.
25 Geo. II.

remained unſold, to the great detriment of the public; *And whereas*, after the deceaſe of the aforeſaid William Brinkley, and Richard Richardſon, two of the ſaid Truſtees, many perſons did actually, and *bona fide*, purchaſe of Benjamin Shurmer, the ſurvivor, ſeveral lots of ground, within the ſaid town; but becauſe the truſt did not ſurvive to the ſaid Benjamin Shurmer by virtue of any words of the act aforeſaid, ſuch perſons could not have ſufficient titles for ſuch lots from the ſaid Benjamin Shurmer, but were in danger of being diſpoſſeſſed of the ſame; *And whereas*, for the remedying and preventing of ſuch inconveniencies, both to the public and ſuch perſons as were *bona fide* purchaſers, as aforeſaid; and in order that the intention of the ſaid act might be fully complied with, an act of General Aſſembly of this government was made in the thirteenth year of the reign of his preſent Majeſty, appointing John Holliday, James Gorrell, and Thomas Skidmore, junior, of Kent county aforeſaid, gentlemen, or any two of them, and the ſurvivors and ſurvivor of them, to bargain, ſell, and confirm all ſuch lots of ground within the town of Dover aforeſaid, as had not theretofore been conveyed and confirmed by any of the ſaid Truſtees; *And whereas* the aforeſaid John Holliday, and Thomas Skidmore, junior, two of the ſaid Truſtees, are ſince deceaſed, and their ſurvivor, by an indiſpoſition of body, is at preſent rendered incapable of performing the truſt required of him by the ſaid act; *And whereas* there are ſeveral lots of ground within the ſaid town of Dover, which have not been conveyed and confirmed, by any of the aforeſaid Truſtees, to the purchaſer or purchaſers thereof: For the remedying and preventing therefore of ſuch inconveniencies, both to the public and ſuch perſon or perſons as have been *bona fide* purchaſers,

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the*

CHAP. CXL.

25 Geo. II.

ſame, That James Gorrell, Benjamin Chew, and Robert Willcocks, gentlemen, or any two of them, and the ſurvivors and ſurvivor of them, ſhall and are hereby impowered to grant, bargain, ſell, convey, and confirm, all ſuch lots of ground, within the town of Dover aforeſaid, as have not hitherto been ſold or diſpoſed of by any of the Truſtees in the aforeſaid acts named, to ſuch perſon or perſons as ſhall be willing to purchaſe the ſame for ſuch value and conſideration as ſhall be agreed upon between them and the purchaſers.

Truſtees impowered to convey the lots, &c.

Their conveyances, &c. declared valid.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the ſaid James Gorrell, Benjamin Chew, and Robert Willcocks, or any two of them, and the ſurvivors and ſurvivor of them, are hereby impowered and required to make, execute, and acknowledge, all ſuch conveyances and aſſurances, as ſhall be reaſonably required, and are neceſſary for the confirming all ſuch perſons in their rights and poſſeſſions, who ſhall appear to them, the ſaid Truſtees, actually and *bona fide* to have purchaſed any lots within the ſaid town of Dover, of the aforeſaid Truſtees, or any two of them, at the proper coſts and charges of the ſaid purchaſers, their heirs and aſſigns; all which conveyances and aſſurances ſhall be good and valid to all ſuch purchaſer and purchaſers, their heirs and aſſigns, for ever.

SECT. 4. *Provided always*, That ſuch perſon or perſons ſhall pay, or ſecure to be paid, to the ſaid Truſtees, for the uſe of the public, ſuch ſum and ſums of money as the ſaid lots were originally contracted for, unleſs the ſame ſhall appear to be paid to any of the former Truſtees.

Truſtees to render account, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the ſaid Truſtees ſhall once in every year render an account to the Levy Court of the ſaid county, of all the lots ſo by them ſold or diſpoſed of, and the conſideration for which the ſame have been purchaſed and bought, and ſhall alſo pay to the Treaſurer of the ſaid county for the time being, all ſuch ſums of money as they have received for lots ſold as aforeſaid, which money ſhall be diſpoſed of, and applied to ſuch uſes and purpoſes as the ſaid Levy Court,

Court, at the time of laying of the levies for the ſaid county, ſhall direct and appoint. And the ſaid court ſhall and may, at the time aforeſaid, yearly allow to the ſaid Truſtees ſuch reward for their care and pains, in executing the truſt repoſed in them by this act, as they ſhall think fit and reaſonable.

CHAP. CXLI. a.

An ACT *for repealing divers acts of Aſſembly of this government, in this act mentioned.* 25 Geo. II.

WHEREAS ſundry acts of Aſſembly of this government are found, by experience, not to be well adapted to the preſent circumſtances of the inhabitants thereof,

BE it therefore enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That an act, entituled, *An act for aſcertaining the dimenſions of caſks, and for the true packing of meat and tobacco for tranſportation*; and that one other act, entituled, *An act for the recovery of officers fees*; and that one other act, entituled, *An act for the deſtruction of blackbirds and crows*; and that one other act, entituled, *An act impowering the Juſtices of New-Caſtle county in a further regulation of roads*; and that one other act, entituled, *An act for ſtopping up the mouth of the Broad Kyll, in order to deepen Lewes Creek*; and that one other act, entituled, *An act for improving navigation by deepening Lewes Creek*; and that one other act, entituled, *A ſupplement to the act for regulating and eſtabliſhing fees*; and that one other act, entituled, *An act impowering James Smith and Abraham Allee to ſell the lands late of John Hall, deceaſed*, &c. and all and every of them, and all and every matter, clauſe and thing, Titles of the acts repealed.

in

CHAP. CXLI. 25 Geo. II.

in the ſaid acts, and every of them, contained, are hereby repealed, made null and void.

CHAP. CXLII. a.

25 Geo. II. *An* ACT *for confirming the ſales of lands made by executors, by virtue of orders of the ſeveral Orphans Courts within this government.*

Preamble.

WHEREAS it hath been a practice within this government, for executors to ſell and convey the lands, tenements, and hereditaments of their teſtator or teſtators, by order of the reſpective Orphans Courts within the ſame, upon due proof made to ſuch court, that the perſonal eſtate or eſtates of ſuch teſtator or teſtators hath or have not been ſufficient to diſcharge his, her, or their juſt debt, or debts, and to educate and maintain his, her, or their children, when in ſtrictneſs of law the ſaid courts do not appear to have been inveſted with any power to make ſuch order or orders: Therefore, for the quieting the minds of ſuch perſons as have fairly purchaſed lands from executors, under ſuch orders, and for the confirming them in their rights and poſſeſſions,

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That all grants, bargains, and ſales of lands, tenements, and hereditaments, that have been made within this government, ſince the Year of our Lord One Thouſand Seven Hundred and Twenty, by any executor or executors, purſuant to any order of the reſpective Orphans Courts within this government, where it appears that the executor or executors have accounted for, and paid the money for which ſuch lands were ſold, for the uſes above-

Sales of Lands, &c. by executors, ſince 1720, declared valid, &c.

mentioned,

mentioned, and where no ſuit in law or equity hath been brought, for the ſetting aſide ſuch grants, bargains, and ſales, ſhall be adjudged, and are hereby declared to be good and effectual in law, to all intents, conſtructions, and purpoſes, for the conveying, aſſuring, and confirming, to the grantee, or bargainee, ſuch eſtate or eſtates therein, as by his or her deed or deeds are limited and directed. *(a)* 25 Geo. II.

SECT. 3. *Provided always*, That nothing in this act contained ſhall be deemed or underſtood to make good or valid any grant, bargain, or ſale, wherein any fraud or colluſion hath been practiſed. unleſs in caſes of fraud.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That an act of Aſſembly of this government, entituled, *An act for the confirmation of the poſſeſſors of lands purchaſed bona fide from executors, by virtue of orders of Orphans Courts, within this government*, and every matter, clauſe, and thing, therein contained, is hereby repealed, and declared to be null and void. Former act repealed.

CHAP. CXLIII. a.

An ACT *appointing Truſtees to ſell the gaol and lot in the town of Dover, and to purchaſe another lot in ſaid town for the erecting a new gaol thereon.* 25 Geo. II.

WHEREAS it hath been repreſented to this Houſe, that the inhabitants of Kent county are raiſing and levying a ſum of money for the erecting a new priſon in the town of Dover, in the ſaid county, and that the lot whereon the old gaol now ſtands, is not conveniently ſituated for ſuch purpoſe, Preamble.

SECTION 2. *BE it therefore enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, and province*

(a) See before chap. 60. a. ſect. 7. and chap. 28. a.

CHAP. CXLIII. 25 Geo. II.

province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That Samuel Dickinſon, John David, and John Vining, of the county of Kent, eſquires, and Robert Willcocks, and Benjamin Chew, of the ſaid county, gentlemen, or the majority of them, are hereby conſtituted, nominated, and appointed Truſtees, and are hereby impowered to ſell and diſpoſe of the gaol and lot in the town of Dover, for the beſt price they can procure for the ſame, and to make over, convey, and confirm, by one or more deed or deeds, the ſaid gaol and lot, with the appurtenances thereunto belonging, to the purchaſer or purchaſers thereof, his, her, or their heirs and aſſigns for ever; which ſale, when ſo made, is hereby declared to be good and valid in law, to all intents and purpoſes; and the ſaid Truſtees ſhall apply the money ariſing on ſuch ſale towards the purchaſe of a new lot in the ſaid town, for the uſe of the public, and the reſidue (if any) ſhall be paid to the Treaſurer of the ſaid county for the time being, to be applied towards defraying the charge of building a new gaol, or ſuch other purpoſes as the Levy Court of the ſaid county ſhall direct and appoint.

Truſtees appointed to ſell lots, &c.

Money how to be applied.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That the ſaid Truſtees, or the major part of them, ſhall, and are hereby impowered and authoriſed to purchaſe ſome other lot of ground within the ſaid town of Dover, for the building of a new gaol, and ſhall take a deed to themſelves, and the ſurvivor of them, their and the ſurvivor of their heirs and aſſigns for ever, in truſt for the uſe of the inhabitants of the ſaid county of Kent.

Lot for the gaol to be purchaſed.

CHAP.

CHAP. CXLIV. a.

CHAP. CXLIV.

26 Geo. II.

An ACT *prescribing an easy and summary method to perpetuate the testimony of witnesses, relating to the bounds of lands within this government. (a)*

WHEREAS the estates of the inhabitants of this government consist chiefly in lands, the bounds of which being subject to decay, and to be destroyed by various accidents, many disputes frequently arise about such bounds; *And whereas* the present legal mode of perpetuating the testimony of witnesses relating to the bounds of lands, is both tedious and expensive: For the remedying of which evils, Preamble.

SECTION 2. *BE it therefore enacted by the honorable James Hamilton, esq. with his Majesty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Castle, Kent, and Sussex, upon Delaware, and province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties, in General Assembly met, and by the authority of the same,* That it shall and may be lawful for any person or persons who are owners and possessors of any lands within this government, as often as he, she, or they shall have occasion, to examine any witness or witnesses, to prove any boundary or boundaries of his, her, or their land, in order to perpetuate their testimony, to exhibit his, her, or their petition to the Justices of the Court of Chancery, of the county where the lands lie, thereby praying that they will appoint three Commissioners to take the examination of such witness or witnesses. And if the said justices shall see a reasonable cause for the granting the prayer of such petition, then and in such case they shall nominate and appoint three honest and discreet freeholders of the county, to be Commissioners for the taking such examination, who shall, before they enter on their office, take an oath or affirmation before one of the justices of the said court, to whom power is hereby

Petition to be exhibited to the Chancery Court,

who may appoint Commissioners, &c.

(a) See "An act for marking and bounding lands," chap. 117. c, passed February 19, 1796.

CHAP. CXLIV. 26 Geo. II.

hereby given to adminiſter ſuch oath or affirmation, *(b)* that they will faithfully and impartially take the examination of ſuch witneſs or witneſſes as ſhall be produced to them for the purpoſes aforeſaid, and return the ſame into the ſaid court. *(c)*

Ten days notice to be given, &c.

SECT. 3. *Provided always, and be it further enacted by the authority aforeſaid*, That before the ſaid juſtices ſhall proceed to appoint ſuch Commiſſioners, the perſon or perſons petitioning, or intending to petition for ſuch appointment, ſhall give, or cauſe to be given, ten days notice in writing to the owners of the contiguous or adjoining lands, their agents, attornies or guardians (if they are known, or can be found) of ſuch the ſaid petitioner's intended application to the ſaid juſtices, in order that ſuch owners of the contiguous lands, their agents, attornies or guardians, or any of them, may be preſent, and make and offer to the ſaid juſtices, any legal or reaſonable objections to any perſon or perſons to be nominated by the ſaid juſtices for ſuch Commiſſioners; and alſo, that before any ſuch examination ſhall be taken, the perſon or perſons petitioning, or ſome perſon or perſons by him, her, or them delegated, ſhall affix an advertiſement at the Court Houſe door of the ſaid county, at leaſt ten days before the meeting of the ſaid Commiſſioners, thereby giving notice of the time and place of their meeting; and ſhall further give ſuch notice in writing, to all the owners of the contiguous or adjoining lands, their agents, attornies, or guardians, in order that they may attend (if they think proper) to croſs-examine ſuch witneſs or witneſſes: And ſuch owners of the contiguous lands, their agents, attornies, or guardians, or any of them, ſhall alſo have liberty to produce on their part, to the ſaid Commiſſioners, any witneſs or witneſſes, to be examined touching ſuch boundaries, reſerving to the ſaid petitioners, their agents or attornies, the like power

and an advertiſement to be affixed to the Court houſe door, &c.

(b) By an act of February 7, 1795, chap. 79. c, ſect. 3. ſuch oath, &c. may be adminiſtered by any Judge or Juſtice of any of the Courts of Law, or any Juſtice of the Peace in this ſtate.

(c) See before chap. 54 a, ſect. 21, and the note *(b)* there.

power and liberty to be preſent at ſuch examinations, and to croſs-examine ſuch witneſs or witneſſes, ſo to be adduced by the owners of the contiguous lands, their agents, attornies, or guardians, or any of them. And full power and authority is hereby given to the ſaid Commiſſioners, to take the examination and depoſitions of all ſuch witneſs or witneſſes as ſhall be produced before them, as well by the ſaid petitioners, their agents or attornies, as by any of the owners of the contiguous lands, their agents, attornies, or guardians, upon the oath or affirmation of ſuch witneſs or witneſſes; which oath or affirmation the ſaid Commiſſioners are impowered to adminiſter.

Commiſſioners power.

SECT. 4. *Provided always, and be it further enacted by the authority aforeſaid*, That all ſuch depoſitions and croſs-examinations ſhall be fairly and impartially taken in writing, upon the oath or affirmation of the witneſs or witneſſes making the ſame, and ſhall be diſtinctly read to, approved and ſigned by, ſuch witneſs or witneſſes making the ſame reſpectively.

Depoſitions, &c. to be taken in writing, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the depoſitions ſo as aforeſaid taken, ſhall be returned into the Court of Chancery aforeſaid, by the Commiſſioners aforeſaid, or any two of them, in order to be there recorded and perpetuated, and ſhall be admitted as evidence in any court of law or equity within this government, in caſe of the death of ſuch witneſs or witneſſes, or his, her or their abſence out of this government, or other legal diſability to attend, and in no other caſe whatſoever.

and returned into the Court of Chancery, &c.

SECT. 6. *Provided always, and be it further enacted by the authority aforeſaid*, That if upon the return of any ſuch depoſitions into the ſaid court, any error or errors ſhall appear to the juſtices of the ſaid court, to have been made or committed by the ſaid Commiſſioners, in the taking the ſaid depoſitions, or any of them, either through miſtake, partiality or otherwiſe, that then the ſaid juſtices ſhall have power to make a new appointment of three other Commiſſioners, to re-take the depoſitions of ſuch witneſs or witneſſes, and make return thereof in manner aforeſaid, any thing herein before mentioned or contained to the contrary notwithſtanding.

In caſe of error, new Commiſſioners may be appointed.

CHAP. CXLV.

1753.

CHAP. CXLV. a.

An ACT *concerning written and nuncupative wills.*

Preamble.

WHEREAS the laws of this government heretofore made, relating to teſtaments and laſt wills,*(a)* have been found to be very defective, and not well adapted to the circumſtances of the inhabitants of this government: For the remedying whereof, and prevention of all fraud in the making and proving laſt wills and teſtaments;*(b)*

SECTION 2. *BE it therefore enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn, and Richard Penn, eſquires, true and abſolute proprietaries of the ſaid counties and province, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the firſt day of May, in the year of our Lord One Thouſand Seven Hundred and Fifty-four, all deviſes and bequeſts of any lands or tenements, within this government, ſhall be in writing, and ſigned by the party ſo deviſing the ſame, or by ſome other perſon in his or her preſence, and by his or her expreſs directions, and ſhall be atteſted and ſubſcribed, in the preſence of the the ſaid deviſor, by two or more credible witneſſes, or elſe they ſhall be utterly void, and of none effect. *And* moreover, no deviſe, in writing, of any lands, tenements, or hereditaments, within this government, or any clauſe thereof, ſhall, at any time after the ſaid firſt day of May, be revocable, otherwiſe than by ſome other will or codicil in writing, or other writing, declaring the ſame, or by burning, cancelling, tearing, or obliterating the ſame, by the teſtator

Deviſes of lands to be in writing.

No deviſe of lands, &c. revocable but by writing, or cancelling, &c.

(a) See appendix,

(b) See alſo chap, 196, a. "An act concerning wills made by perſons reſiding out of this government," paſſed June 16, 1769.

teſtator or teſtratrix, or in his or her preſence, and by his or her directions and conſent: But all deviſes and bequeſts of lands and tenements ſhall remain and continue in force until the ſame be burnt, cancelled, torn or obliterated, by the teſtator or teſtratrix, or his or her directions in manner aforeſaid, or unleſs the ſame be altered by ſome other will or codicil in writing, or other writing of the deviſor, ſigned in the preſence of two or more credible witneſſes declaring the ſame, any former law or uſage to the contrary notwithſtanding.

SECT. 3. *And whereas* many teſtaments and laſt wills, in writing, have been heretofore legally proved according to the the directions, and within the times limited by the laws of this government, before the reſpective regiſters, or other proper officers, within this government, and the ſaid wills and probates have been recorded in the Regiſter's Office, by the laws of this government appointed to be kept in the reſpective counties for ſuch purpoſes: *And whereas* many teſtaments and laſt wills, ſo proved and recorded, have, either by the neglect of officers, or by fraud, or ſome unavoidable accident, been miſlaid, loſt or deſtroyed, which renders it highly neceſſary, for the ſafety and ſecurity of the eſtates and properties of the inhabitants of this government, to provide a remedy in ſuch caſes: *Be it therefore enacted by the authority aforeſaid*, That in all caſes, where any original teſtament or laſt will cannot be found or had, the copy of ſuch teſtament and laſt will, that hath been heretofore legally proved in manner aforeſaid, and recorded, or, after the firſt day of May next, may be made, proved and recorded, in manner as by this act is above directed, being duly certified, under the hand and ſeal of any regiſter of the reſpective counties within this government, where ſuch teſtament or laſt will hath been or ſhall be ſo proved and recorded, ſhall be good and ſufficient evidence in all Courts of Judicature within this government, to all intents and purpoſes whatſoever, as fully and amply as if ſuch original teſtament and laſt will was produced in open court, and there proved by the witneſſes to ſuch will, any law, cuſtom, uſage

Where original teſtaments, &c. cannot be found, proved copies ſhall be good.

CHAP. CXLV. 1753.

uſage or ſtatute, to the contrary in anywiſe notwithſtanding. *Provided always*, That nothing in this act contained ſhall be deemed or conſtrued to eſtabliſh or make good any teſtament or laſt will, or the copy thereof, that ſhall appear to have been revoked or altered by the teſtator by any latter will or codicil, in writing, made before the firſt day of May next, or any teſtament or laſt will which ſhall be made after the firſt day of May next, that ſhall appear to be revoked or altered by the teſtator or teſtatrix, by any latter will or codicil in writing, or other writing of the deviſor, ſigned in the preſence of two or more credible witneſſes, legally declaring the ſame, nor any will, in the obtaining or proving of which, any forgery, fraud or colluſion hath been uſed.

Teſtaments revoked by writing, not made good by this act, &c.

SECT. 4. *And*, for the prevention of fraudulent practices in the proving and ſetting up nuncupative wills, *Be it enacted by the authority aforeſaid*, That from and after the firſt day of May next, no nuncupative will ſhall be good, where the eſtate thereby bequeathed ſhall exceed the value of Fifty Pounds, that is not proved by the oaths or ſolemn affirmations of two credible witneſſes at the leaſt, who were preſent at the making thereof; nor unleſs it be proved, that the teſtator or teſtatrix, at the time of pronouncing the ſame, did deſire the perſons preſent, or ſome of them, to bear witneſs, that ſuch was his or her will, or to that effect; nor unleſs ſuch nuncupative will was made in the laſt ſickneſs of the deceaſed, and in the houſe of his or her habitation or dwelling, or where he or ſhe hath been reſident for the ſpace of ten days or more next before the making of ſuch will, except where ſuch perſon was ſurpriſed or taken ſick, being from his or her own home, and died before he or ſhe returned to the place of his or her dwelling.

Nuncupative wills not good unleſs proved, &c.

SECT. 5. *And be it further enacted*, That after ſix months paſt, from the ſpeaking of the pretended teſtamentary words, no teſtimony ſhall be received, to prove any will nuncupative, except the ſaid teſtimony, or the ſubſtance thereof, were committed to writing within ſix days after the making of the ſaid will.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That no letters teſtamentary, or probate of

any

CHAP. CXLV. 1753.

any nuncupative will, ſhall paſs the ſeal of the Regiſter's Office in the reſpective counties of this government, till fourteen days at the leaſt after the death of the teſtator be fully expired; nor ſhall any nuncupative will be at any time received or proved, unleſs proceſs hath firſt iſſued, to call in the widow, or the next of kindred to the deceaſed, to the end they may conteſt the ſame if they pleaſe.

Letters teſtamentary, &c. not to paſs the ſeals until, &c. Nuncupative will not to be received, &c. unleſs, &c.

SECT. 7. *Provided always*, That notwithſtanding this act, any mariner or ſeaman, being at ſea, or any ſoldier, being in actual military ſervice, may diſpoſe of his moveables, wages and perſonal eſtate, as he or they might have done before the making of this act.

Mariners at ſea, &c. may diſpoſe of their eſtate, &c.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That an act of Aſſembly of this government, intituled, *An act confirming deviſes of lands, and validity of nuncupative wills*; and one other act, intituled, *An act confirming deviſes of lands, and the validity of nuncupative wills*, from and after the firſt day of May next, are hereby repealed, and from thenceforth declared to be null and void. *(c)*

Former acts repealed.

Paſſed October 30, 1753.

CHAP. CXLVI. a.

An ACT *for impowering the Juſtices of the Peace, within the reſpective counties of this government, to appoint proper officers for the regulating and governing ſuch work-houſes or houſes of correction as ſhall hereafter be built within the ſame; and for the regulating and governing of the gaols of the ſaid reſpective counties, until ſuch work-houſes and houſes of correction are built.* 1753.

WHEREAS, by an act of General Aſſembly of this government, made in the ſixteenth year of his Majeſty's reign, intituled, *An act for raiſing county* Preamble.

(c) For theſe ſee apppendix.

CHAP. CXLVI. 1753.

county rates and levies,(a) the Juſtices of the Peace of the reſpective counties within the ſame, or any three of them, together with eight Grand Jurymen, or ſuch of them as will attend, and the Aſſeſſors, or the majority of them,*(b)* are impowered yearly, and every year, to raiſe, ſettle and adjuſt, ſuch ſum and ſums of money as may be thought neceſſary to defray the charges of building and repairing of work-houſes within the ſaid government; but no proviſion is made by the ſaid act for the regulating and governing the ſaid houſes, and appointing keepers and other proper officers for that purpoſe;

SECT. 2. *BE it therefore enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor, and Commander in Chief, of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, under the honorable Thomas Penn, and Richard Penn, eſquires, true and abſolute proprietaries of the counties and province aforeſaid, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act, it ſhall and may be lawful for the Juſtices of the Peace of the reſpective counties of this government, in their General Quarter Seſſions, to elect and appoint ſome able and honeſt inhabitant or inhabitants of the ſaid reſpective counties, as often as need may require, to be keeper or keepers of the ſaid houſes when built, and ſuch other proper officer or officers as may be neceſſary for the well governing the ſame, who, when ſo as aforeſaid elected and appointed, ſhall give punctual and conſtant attendance at the ſaid houſes, there to receive and execute the orders given him or them by the commitments which may happen to be made from time to time, by any Juſtice of the Peace, or other magiſtrate having legal power to commit and ſend to the ſaid work-houſes, and houſes of correction, all vagabonds, unruly ſervants, and other idle or diſorderly perſons; the which ſaid work-

Juſtices may appoint work-houſe keepers.

(a) See before chap. 102. a. 16 Geo. II.

(b) See chap. 18. c. "An act to amend the laws of this ſtate for raiſing county rates and levies," for other conſtitution of this power, paſſed June 14, 1793.

work-houſes, and houſes of correction, when erected and built, ſhall be uſed and employed for the keeping, correcting, and ſetting to work, of all rogues, vagabonds, ſturdy-beggars, and idle or diſorderly perſons, who, by the laws and uſage of Great Britain, or by the laws of this government, are to be kept, corrected, or ſet at work in ſuch houſes, or in the yards belonging to them.

Uſe of work-houſes.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the keepers of ſuch work-houſes, and the other proper officers of the ſame, hereafter to be elected and appointed as aforeſaid, ſhall, for the diſcharge of their ſeveral offices, be allowed ſuch fees, and have ſuch reward, as the Levy Courts of the ſaid reſpective counties, from time to time, ſhall judge moſt reaſonable and expedient; which reward ſhall be raiſed as other county rates and levies are within this government.

Levy Courts to ſettle the fees.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That no keeper or officer of any ſuch work-houſes ſhall keep, or ſuffer to be kept any tavern, public-houſe or ale-houſe, or ſhall preſume to utter or ſell, or knowingly ſuffer to be uttered or ſold in the ſaid houſes, to any perſon or perſons whatſoever, any wine, rum, beer, ale, cyder, punch, or any other ſtrong liquor; but if he or they ſhall be duly convicted thereof, or of any breach or neglect of his or their duty, before the Juſtices of the Court of Quarter Seſſions of the reſpective county where ſuch offence ſhall be committed (who are hereby authoriſed and impowered to hear and determine all ſuch complaints againſt them, in a ſummary way, by petition) he or they ſhall, by the ſaid juſtices on ſuch conviction, be removed from his or their office or offices, and fined at the diſcretion of ſuch court. *And* if any officer or officers of ſuch houſes ſhall die, or be removed from his or their office or offices, between the times appointed by the laws of this government for the meeting and holding the ſaid Courts of Quarter-Seſſions, then, and in ſuch caſe, the Juſtices of the Court of Quarter Seſſions, for that reſpective county, or any three of them, ſhall, and are hereby impowered, to nominate and appoint ſome other proper perſon

Work-houſe keepers not to ſell ſtrong liquors, &c.

Vacant offices how to be ſupplied.

CHAP. CXLVI. 1753.

perſon or perſons to exerciſe ſuch office or offices, until a new appointment of ſuch officer or officers, ſhall be made by the Juſtices of the Peace in their next Quarter Seſſions.

Priſon keepers to be allowed fees as work-houſe keepers, &c.

SECT. 5. *And*, whereas by a law of this government, intituled, *An act for bailing priſoners, and about impriſonments*, (c) the ſeveral priſons in the reſpective counties within this government are directed to be uſed as work-houſes until ſuch houſes ſhall be particularly erected for that purpoſe, *Be it therefore enacted by the authority aforeſaid*, That, until ſuch work-houſes ſhall be erected, the keepers of the priſons of the ſaid reſpective counties, ſo uſed as work-houſes, ſhall be provided for, and the fees of ſuch keepers regulated from time to time, by the Levy Courts of the ſaid reſpective counties in like manner as is herein before directed, for the keepers and other proper officers of ſuch work-houſes hereafter to be built.

Gaolers to execute the office of work-houſe maſters, until houſes, &c. are erected,

SECT. 6. *And be it further enacted by the authority aforeſaid*, That, until the work-houſes and houſes of correction ſhall be erected in the ſeveral counties of this government, the keeper or keepers of the reſpective gaols in the ſaid counties, for the time being, are hereby declared and appointed to execute the office of work-houſe maſter, and ſhall keep to hard labour, and correct, in their gaol or priſon, all ſuch idle and diſorderly perſons, or others, as ſhall be committed to them by the juſtices of the ſaid reſpective counties, or others, having legal power to commit ſuch perſon or perſons, and, in every thing, obey the legal commands contained in ſuch commitments; and on breach or neglect of his duty, being thereof legally convicted before the Juſtices of the Court of Quarter Seſſions of the county where ſuch offence is committed (after complaint to them made) ſhall be puniſhed and fined in the ſame manner as is before directed in relation to the keepers of the work-houſes hereafter to be built.

Paſſed October 30, 1753.

CHAP.

(c) See before chap. 58. a. 4 Geo. II.

CHAP. CLXVII. a.

CHAP. CXLVII. 1754.

An ACT *for reviving and continuing an act of Aſſembly of this government made in the ſeventeenth year of his Majeſty's reign, intituled, "An act for the more eaſy and ſpeedy recovery of ſmall debts."* Expired.

Note. Robert Hunter Morris, eſquire, began his government in October, 1754, and continued until Auguſt, 1756.

CHAP. CXLVIII. a.

An ACT *encouraging the killing of ſquirrels in Kent County.* Expired. 1754.

CHAP. CXLIX. a.

An ACT *for raiſing the ſum of One Thouſand Pounds for his Majeſty's uſe, and providing a fund for ſinking the ſame.* Expired. 1754.

CHAP. CL. a.

An ACT *for reviving an act of Aſſembly of this government, made in the fifteenth year of his Majeſty's reign, intituled, "An act for eſtabliſhing a militia within this government."* Expired. 1755.

CHAP. CLI.

CHAP. CLI. a.

1755. *A Supplement to an act of Aſſembly of this government, intituled,* "*An act for eſtabliſhing and regulating fees.*" Repealed in chap. 204. a. ſect. 39. paſſed March 24, 1770.

CHAP. CLII. a.

1756. *An* ACT *for ſtriking the ſum of Two Thouſand Pounds in new bills of credit for his Majeſty's uſe, and providing a fund for ſinking the ſame.* Expired.

CHAP. CLIII. a.

1759. *An* ACT *for eſtabliſhing a militia in this government.* Expired.

CHAP. CLIV a.

1756. *An* ACT *to reſtrain the exportation of proviſions and warlike ſtores from the government of the counties of New-Caſtle, Kent, and Suſſex, upon Delaware.* Expired.

CHAP. CLV. a.

1756. *An* ACT *for the new appointment of Truſtees for the ſeveral General Loan Offices of this government.* Expired.

CHAP.

CHAP. CLVI. a.

CHAP. CLVI.

An ACT *to revive and continue an act of Assembly of this government, entituled,* "*An act to restrain the exportation of provisions and warlike stores,* &c." Expired. 1756.

CHAP. CLVII. a.

An ACT *for establishing a militia in this government.* 1757.
Expired in 1763.

CHAP. CLVIII. a.

An ACT *for striking Four Thousand Pounds in bills of credit, and granting the same to his Majesty's use, and to provide a fund for sinking the same* Expired. 1757.

CHAP. CLIX. a.

An ACT *for extending several sections of an act of Parliament, passed in the twenty-ninth year of the present reign, intituled,* "*An act for punishing mutiny and desertion, and for the better payment of the army and their quarters.*" Expired. 1757.

CHAP.

CHAP. CLX.

CHAP. CLX. a.

1758. *An* ACT *for ſtriking Eight Thouſand Pounds in bills of credit, and giving the ſame to the King's uſe, and for the providing a fund for ſinking the ſame.* Expired.

CHAP. CLXI. a.

1759. *An* ACT *for raiſing the ſum of Twelve Hundred Pounds for his Majeſty's uſe, and providing a fund for ſinking the ſame.* Repealed. See chap. 174. a. ſect. 11.

CHAP. CLXII. a.

1759. *An* ACT *for re-printing, exchanging and re-emitting Twenty Thouſand Pounds of the bills of credit of this government, to be lett out on loan; and for ſtriking the further ſum of Seven Thouſand Pounds in ſuch bills, and giving the ſame to his Majeſty's uſe, and for providing a fund for ſinking the ſame. (a)*

Preamble. WHEREAS, through the ſcarcity of ſilver and gold in this government, occaſioned by remitting the ſame to Great Britain, to pay for the product and manufactories of that kingdom imported hither for the uſe of the inhabitants, ſundry ſums in bills of credit were formerly emitted, which, by experience, have been found to be very uſeful for carrying on the trade and commerce of this government, and all the ſaid acts whereby the ſaid bills were ſtruck and made current are now expired: *And whereas*, by means of the intereſt-money, ariſing on the loan of the

(a) For ſubſequent acts authoriſing the emitting bills of credit to be let out on loan, &c. See after chap. 230, a, paſſed September 2, 1775, and chap. 8, b, paſſed February 22, 1777.

CHAP. CLXII. 1759.

the ſaid bills, the inhabitants of theſe counties have been enabled to ſupport the government in an honorable manner, and to erect ſome, and repair others of the public buildings thereof: *And whereas* the Aſſembly of this government, ever ready to ſhew their zeal for his Majeſty's ſervice, have already contributed very largely toward the ſupport of the common cauſe, to the exhauſting all their public funds, and greatly to the impoveriſhing their conſtituents by heavy taxes; yet, foraſmuch as the King's ſervice, and the preſent exigency of affairs require immediate additional ſupplies, we, the Repreſentatives of the freemen of this government, being deſirous to demonſtrate our loyalty and duty to the beſt of Kings, and willing to exert ourſelves with the utmoſt vigour, to the annoying his Majeſty's enemies, and reſtoring peace to America, have agreed to give a further ſum of Seven Thouſand Pounds, in bills of credit of this government, to his Majeſty's uſe, and pray that it may be enacted;

SECTION 2. *And be it enacted by the honorable William Denny, eſq. (b) with his Majeſty's royal approbation, Lieutenant Governor, and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That indented bills of credit, to the value of Twenty-ſeven Thouſand Pounds, lawful money of America, according to an act of Parliament made in the ſixth year of the late Queen Ann for aſcertaining the rates of foreign coins in the plantations, in America, ſhall, before the firſt day of June next, be prepared, and printed on good ſtrong paper, under the care and direction of Jacob Kollock, William Armſtrong, and Cæſar Rodney, gentlemen, or any two of them, and at the charge of the public, to be diſcharged out of the intereſt-money that hath ariſen, or ſhall ariſe, upon the loan of any bills of credit formerly emitted, or to be re-emitted, by any Truſtees of

Twenty Seven Thouſand Pounds to be ſtruck in bills of credit.

(b) William Denny, eſquire, began his government in Auguſt 1756, and continued until November 16, 1759.

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of the Loan Offices of this government for the time being; which bills ſhall be made and prepared in manner and form following, and no otherwiſe, *viz.*

Form of bills.

THIS indented bill ſhall paſs current for within the government of the counties of New-Caſtle, Kent and Suſſex, on Delaware, according to an act of Aſſembly of the ſaid government made in the thirty-ſecond year of the reign of our Sovereign Lord King George the ſecond. Dated the firſt day of June, One Thouſand Seven Hundred and Fifty-nine.

And the ſame bills ſhall be printed with the arms of the King on the ſide, and the ſums of money for which every of the ſaid bills is to paſs ſhall be printed at the top of each bill in words at length, with ſuch other devices on the ſaid bills as the ſaid Jacob Kollock, William Armſtrong and Cæſar Rodney, or any two of them, ſhall think fit to direct, as well to prevent counterfeits as to diſtinguiſh their ſeveral denominations; each of which bills ſhall be of the ſeveral and reſpective denominations following, and no other, *to wit.*

Number and denominations thereof.

Fifteen thouſand five hundred of the ſaid bills, the ſum of Twenty Shillings value in each of them.

Six thouſand of the ſaid bills, the ſum of Fifteen Shillings in each of them.

Six thouſand of the ſaid bills, the ſum of Ten Shillings in each of them.

Eight thouſand of the ſaid bills, the ſum of Five Shillings in each of them.

Five thouſand of the ſaid bills, the ſum of Two Shillings and Six-pence in each of them.

Five thouſand of the ſaid bills, the ſum of Two Shillings in each of them.

Eight thouſand of the ſaid bills, the ſum of One Shilling and Six-pence in each of them.

Five thouſand five hundred of the ſaid bills, the ſum of One Shilling in each of them.

And the ſaid Jacob Kollock, William Armſtrong and Cæſar Rodney, or any two of them, ſhall uſe the beſt of their care, attention and diligence, during the printing the ſaid bills, that the number and amount of them, according to their reſpective denominations

and

and value aforeſaid, be not exceeded, nor any clandeſtine or fradulent practices uſed by the printer, his ſervants, or any perſon concerned therein.

And for the perfecting the ſaid bills, to make them current within this government, according to the true intent and meaning of this act.

SECT. 3. *Be it enacted by the authority aforeſaid*, That all and every of the ſaid bills ſhall be ſigned and numbered by the perſons following, *to wit*, William Armſtrong, of the county of New-Caſtle, eſq. John Barns, of the county of Kent, gentlemen, and David Hall, of Suſſex county, eſq. who are hereby nominated and appointed to be the ſigners of the ſaid bills, and ſhall, before they preſume to receive or ſign any of the ſaid bills of credit, take an oath or affirmation to the following effect; Signers names.

THAT they will well and truly ſign and number all the bills of credit that ſhall come to their hands for that purpoſe by the direction of this act; and the ſame, ſo ſigned and numbered, will deliver, or cauſe to be delivered, unto the Truſtees of the reſpective General Loan Offices of this government, purſuant to the ſaid directions of this act. Their qualification,

And the ſaid William Armſtrong, Jacob Kollock, and Cæſar Rodney, or any two of them, after the ſaid bills are printed, ſhall deliver them into the hands of the ſaid ſigners to be ſigned and numbered, who ſhall give their receipts for the ſaid bills; and the ſaid ſigners ſhall deliver to the Truſtees, hereafter named, at the reſpective Loan Offices, all the ſaid bills ſo made and numbered and ſigned as aforeſaid, not exceeding the number herein before reſpectively limited and appointed. And the ſaid ſigners ſhall keep or cauſe to be kept a true account of all the ſaid bills by them ſigned and delivered to the ſaid Truſtees, which accounts ſhall be returned by the ſaid ſigners to the General Aſſembly of this government at their next meeting after ſigning the ſaid bills: And for their trouble, care and diligence in doing what is required of them by this act, they ſhall each of them receive Ten Shillings for every thouſand bills by them ſo ſigned and numbered, to be paid to each of them, his executors, adminiſtrators or aſſigns, in bills of credit, to be delivered to them out of the intereſt money ariſing, or and allowance.

to

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to ariſe, in the Truſtees hands of the reſpective Loan Offices aforeſaid, within thirty days after they deliver the ſaid bills, to be paid by the ſaid Truſtees proportionably. And if any of the perſons before nominated to be ſigners ſhall happen to die, or be rendered incapable of doing his or their duty by this act required, it ſhall and may be lawful for the Members of Aſſembly of that county in this government, where any ſuch death or incapacity ſhall happen, with the conſent of the Governor for the time being, to appoint another ſigner in the ſtead of ſuch perſon ſo dying or rendered incapable as aforeſaid, which ſaid perſon or perſons, ſo to be appointed, ſhall take the ſame qualifications as the ſigners in this act appointed are required to take.

Truſtees names.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That the ſum of Ten Thouſand Pounds of the ſaid bills of credit, being ſigned and numbered as aforeſaid, ſhall be by the ſaid ſigners put into the hands of William Patterſon, Richard M'William and Evan Rice, of New-Caſtle county, gentlemen, who are hereby conſtituted Truſtees of the General Loan Office of the ſaid county of New-Caſtle; and the ſum of Six Thouſand Pounds of the ſaid bills of credit ſhall be put into the hands of John Vining, and John Brinkle, of Kent county, gentlemen, who are hereby conſtituted Truſtees of the General Loan Office of the ſaid county of Kent; and the ſum of Four Thouſand Pounds of the ſaid bills of credit ſhall be put into the hands of Jacob Kollock, and Ryves Holt, of Suſſex county, gentlemen, who are hereby conſtituted Truſtees of the General Loan Office of the ſaid county of Suſſex, which Truſtees ſhall give their receipts for ſuch bills as ſhall be by them received; which receipts, as alſo the receipts given by the ſigners, ſhall be delivered to the General Aſſembly of this government at their next ſeſſions after the dates of the ſaid receipts.

When and where Truſtees are to give attendance at their offices.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the Truſtees for the time being, after the receipt of their ſeveral quotas of the ſaid new bills, ſigned and numbered as aforeſaid, ſhall give due attendance at their reſpective Loan Offices; *That is to*

ſay,

ſy, at New-Caſtle, in the county of New-Caſtle, at Dover, in the county of Kent, and at Lewes, in the county of Suſſex, two days in each week, *to wit*, Wedneſdays and Thurſdays, at leaſt for the firſt ten weeks ſucceſſively; and, afterwards, ſhall duly attend at their ſaid offices on the firſt Wedneſdays and Thurſdays, in the months of April, Auguſt and December, and at ſuch other times, as their duty and truſt ſhall require, as well for exchanging the ſaid bills in manner as herein directed, as for doing and performing every other part of their office and truſt, according to the directions of this act.

Their allowance for exchanging old bills.

SECT. 6. *And* the ſaid Truſtees ſhall deliver out the ſaid new bills to ſuch perſons as ſhall demand them in exchange for bills of the ſame value emitted by the directions of an act of General Aſſembly made at New-Caſtle in the year of our Lord One Thouſand Seven Hundred and Forty-ſix; which ſaid old bills ſhall be kept by the Truſtees for their vouchers, to diſcharge them of ſo much of the aforeſaid Twenty Thouſand Pounds, value in new bills, as they ſhall have given in exchange as aforeſaid, before any Committee of Aſſembly of this government to be appointed for that purpoſe, who having truly examined ſuch old bills, ſo received in exchange, ſhall cauſe the ſame to be burned and deſtroyed in their preſence. And the ſaid Truſtees ſhall have for their trouble and care in exchanging every Thouſand Pounds value of the ſaid bills the ſum of Thirty Shillings, to be defrayed out of the intereſt-money aforeſaid.

Bills of credit lawful tender.

SECT. 7. *And be it enacted by the authority aforeſaid*, That the ſaid new bills of credit hereby directed to be made and ſigned as aforeſaid ſhall, from and after the firſt day of June, One Thouſand Seven Hundred and Fifty-nine, be the current bills of this government, for the payment and diſcharge of all manner of debts, rents, ſum and ſums of money whatſoever, due, payable or ariſing upon, or by reaſon of, any mortgage, bill, ſpecialty, bond, note, book-account, promiſe, or any other contract or cauſe whatſoever, as if the ſame was tendered or paid in the coins mentioned in ſuch bond or other writing, book-account, promiſe, aſſumption, or in any other con-

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tract whatſoever, and at the rates aſcertained in the aforeſaid act of Parliament, and ſhall be ſo received in all payments by all perſons whatſoever.

Truſtees and their ſucceſſors impowered to take, hold, &c. lands, &c. granted in mortgage.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That the ſaid Truſtees ſhall have capacity and power to take, hold and enjoy, unto them and their ſucceſſors in the ſaid truſt, all ſuch lands, tenements, rents and hereditaments, and all ſuch plate, as ſhall be granted them in mortgage, or which hath at any time heretofore been granted to any Truſtee or Truſtees of the General Loan Offices of this government, for ſecuring the re-payment of the money, or bills, formerly lent, or hereby directed to be lent; and alſo to ſell, grant, alien, and diſpoſe of the ſame lands, tenements, rents, hereditaments and plate, in default of payment; and alſo to do, execute, perform and ſuffer, all other things whatſoever as fully, to all intents and purpoſes, as any Truſtees of the General Loan Offices aforeſaid, by any former act or acts of Aſſembly of this government, might have done, executed, performed and ſuffered. And upon the death, malfeazance, incapacity or removal, of any of the Truſtees by this act appointed, or of any other that ſhall be nominated and appointed hereafter, it ſhall and may be lawful to and for the General Aſſembly of this government to nominate and appoint ſome other fit perſon or perſons in his or their place and ſtead, who ſhall have the ſame power and authority as if they had been nominated and appointed by virtue of this act.

To continue in their office four years.

SECT. 9. *Provided always, and it is hereby further enacted*, That none of the perſons herein before nominated, or hereafter to be appointed, Truſtees of the General Loan Offices aforeſaid, ſhall longer continue in the exerciſe of the ſaid offices than the term of four years, from the time of their entering upon their reſpective offices, and from thence to the end of the next Seſſions of Aſſembly. *(b)*

SECT. 10. *Provided alſo*, That none of the Truſtees, ſo as aforeſaid nominated, or to be nominated and

(b) For after appointments of ſuch Truſtees, ſee chap. 191. a. paſſed June 16, 1769. and chap. 209. a. paſſed June 13, 1772.

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and appointed, according to the directions of this act, or any of them, or any of their heirs, executors, adminiſtrators, or ſecurities, hereby directed to be given, be acquitted or diſcharged from any thing done, or ſuffered, in or about the truſt hereby committed to them, until they have accounted for and paid, and delivered up, to the ſucceeding Truſtees, all bills, money, ſecurities and writings, belonging to the reſpective Loan Offices, and ſo from time to time during the continuance of this act, any thing herein contained to the contrary notwithſtanding. But before any of the Truſtees, hereby nominated and appointed, or ſuch as ſhall be appointed hereafter Truſtees, ſhall enter upon the execution of their truſt, or any part thereof, they ſhall enter into bond, with good ſecurity, for the ſums delivered into their hands and poſſeſſion reſpectively; *That is to ſay*, the Truſtees of the Loan Office for New-Caſtle county to John Finney, William Till and George Monro, of New-Caſtle county, gentlemen, their executors and adminiſtrators; and the Truſtees of Kent county to Robert Willcocks, Vincent Lockerman and John Clayton, gentlemen, their executors and adminiſtrators; and the Truſtees of Suſſex county to Jacob Phillips, David Hall and Jacob White, gentlemen, their executors and adminiſtrators, who are hereby nominated and appointed Truſtees and Agents for the public for that end and purpoſe, conditioned, for the execution of their truſt and performance of all things required of them by this act; *(c)* and ſhall take an oath or affirmation before ſome Juſtice of the Peace in the words following, *to wit*.

Before diſcharge to account and deliver up all bills, &c.

To give bond.

I A. B. *will, according to the beſt of my ſkill and knowledge, faithfully, impartially and truly, demean myſelf in the diſcharge of the truſt required of me by an act of Aſſembly of this government, intituled*, An act for re-printing, exchanging and re-emitting Twenty Thouſand Pounds of the bills of credit of this government, to be let out on loan, and for ſtriking the further ſum of Seven Thouſand Pounds in ſuch bills, and giving the ſame to his Majeſty's uſe, and for providing a fund for ſinking the ſame.

Their qualification.

SECT.

(c) See after in chap. 174. a. ſect. 5, &c. and in chap. 178. a. ſect. 3, &c. further ſecurities directed to be given by theſe Truſtees, and other duties aſſigned to them.

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SECT. 11. *And be it further enacted by the authority aforesaid*, That the principal sums of money in bills of credit made current by the aforesaid former act of Assembly, and exchanged according to the directions of this present act, shall not be sunk or destroyed otherwise, or at any other time, than by this present act is directed, limited and appointed, any law, custom or usage, to the contrary notwithstanding: But the same principal sums, and all and singular the parts, parcels and quotas thereof, or any of them now received by the Trustees of the several Loan Offices of this government, or yet to be received or recovered from any mortgagor, County Treasurer, or person whatsoever, shall be re-emitted on loan for and during the time and to the full end and term of sixteen years from the first day of June next in the year of our Lord One Thousand Seven Hundred and Fifty-nine; all which loans, made by virtue of this act, shall be made in sums not exceeding Sixty Pounds, nor less than Twelve Pounds, to any one person upon mortgage of messuages, lands, tenements, rents and hereditaments, in this government, whereof the borrowers stand seized in fee simple in their own right, free from incumbrances, the proprietary quit-rents and other rents charged on the same, and discovered to the said Trustees, only excepted; of which titles and clearness, the Trustees are to inform themselves the best they can by any of the ways and means heretofore granted and allowed to the former Trustees of the said General Loan Offices, or to any of them; and shall inform themselves as well of the clear value of the titles of all lands, houses and ground rents, offered in security, so as to be satisfied that the same lands and ground-rents are held in fee simple, and are at least of double the value of the sums requested to be lent; and that as to houses, erected upon ground subject to the payment of ground-rent, offered in mortgage, care shall be taken by the said Trustees, that there be no rent in arrear at the time of receiving the same in mortgage, and that the ground shall be near equal in value, above the ground-rent, to the sum lent, yet so that the house and ground be of a treple value, for the better security of the mortgage money; and thereupon the said Trustees, in pursuance of the

Sums to be lent on mortgage limited.

trust

truſt hereby committed to them, ſhall, by the name and ſtile of the Truſtees of the General Loan Offices of this government, and not otherwiſe, take and receive deeds of mortgage in fee ſimple, of ſuch meſſuages, lands, tenements, rents and hereditaments, with the appurtenances, to ſecure the re-payment of the ſums they lend, to be made yearly, on the firſt day of June, by equal payments, with the whole intereſt accrued, at the rate of Five Pounds per cent. per annum.

Mortgagors under any former act may renew their mortgages.

SECT. 12. *Provided always, and it is hereby further enacted*, That the better to enable any of the mortgagors, by any former act of Aſſembly, to diſcharge their mortgages, it ſhall and may be lawful to and for the ſaid Truſtees, and they are hereby required, to permit thoſe mortgagors, or their heirs, or ſuch other perſon or perſons, to whom they have made over their right of redemption and eſtate in their mortgaged meſſuages, lands and rents, to renew their mortgages reſpectively, if they the ſaid Truſtees ſhall judge them a ſufficient ſecurity for the ſums thereon due and in arrear; Provided the ſame do not exceed Sixty Pounds as aforeſaid, according to the proportions and within the times by this preſent act limited and appointed.

Mortgagors may at any time pay off.

SECT. 13. *Provided alſo*, That if any mortgagor of any meſſuages, lands or rents, in purſuance of this act, his heirs, executors, adminiſtrators or aſſigns, ſhall be minded to pay off and diſcharge his mortgage and ſecurity at any other time than according to the time ſpecified in his mortgage deed, it ſhall be lawful for him or them ſo to do before ſale of the mortgaged premiſes, by paying down the whole principal ſum due and in arrear, together with the intereſt and charges then accrued.

No part of principal ſums to be ſunk before June 1, 1773.

SECT. 14. *And be it further enacted by the authority aforeſaid*, That all the principal ſums of money which the ſaid Truſtees, or their ſucceſſors in the ſaid truſt, ſhall receive by virtue of any mortgage deed, or other ſecurity by them, or any of them, taken in purſuance and by virtue of this preſent act, whether yearly quotas or ſuch ſums as ſhall by them, or any of them, be received in full diſcharge of the ſaid mortgage deeds, or other ſecurities, ſhall again, from time to time, be re-emitted

by

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by the reſpective Truſtees of the General Loan Offices of this governme nt for the time being, upon loan, in manner and form as herein before directed for all the remaining part, and until the end and term aforeſaid, to be repaid in equal annual quotas. And that all the yearly quotas and parcels of the principal ſums ariſing from the ſaid re-emiſſions, which ſhall be paid into the ſaid General Loan Offices, or any of them, on or before the firſt day of June in the year of our Lord One Thouſand Seven Hundred and Seventy-three, ſhall, by the reſpective Truſtees thereof for the time being, be again re-emitted on ſecurities as aforeſaid, and ſo from time to time until all the principal money, anyways ariſing, which ſhall be paid unto them, or any of them, on or before the firſt day of June in the year of our Lord One Thouſand Seven Hundred and Seventy-two, ſhall be wholly re-emitted on ſuch ſecurity as herein before is directed; all which deeds of mortgage ſhall be fairly entered in books of large paper, to be provided by the ſaid Truſtees, and an atteſted copy of the ſaid deed ſo entered and certified by the ſaid Truſtees, or any of them, for the time being, ſhall be and is hereby declared to be good evidence to prove the mortgage thereby mentioned to be made; and on every of the aforeſaid deeds of mortgage ſhall be indorſed or added an oath or affirmation, to be taken by the mortgagor or mortgagors before ſome one of the ſaid Truſtees, who are hereby impowered and required to adminiſter the ſame: That he, ſhe or they, is, or are, ſeized of the hereditaments and premiſes thereby granted, in his, her or their own right, and to his, her, or their own uſe, and that free from all incumbrances to the knowledge of ſuch mortgagor, (the yearly quit-rents thence iſſuing, payable to the chief lord or lords of the fee thereof, and ſuch other rents, if any, as are therein particularly mentioned and diſcovered to the Truſtees, only excepted.) And the aforeſaid deeds, being ſo executed and acknowledged, ſhall transfer the poſſeſſion and veſt the inheritance of and in ſuch mortgaged premiſes to and in the ſaid Truſtees, and their ſucceſſors, as fully and effectually as deeds of feoffment, of livery and ſeizen, or deeds inrolled in

Affidavit to be taken by the mortgagors.

any

any of the King's Courts at Weſtminſter, may or can do: In all which deeds the words *grant*, *bargain*, and *ſell*, ſhall be, and be adjudged, in all places and courts whatſoever, within this government, to have the force and effect of a covenant, that the mortgagor, notwithſtanding any act done by him, was, at the time of the execution of ſuch deed, ſeized of the hereditaments, and premiſes thereby granted, of an indefeazable eſtate of inheritance, free from incumbrances, the rents, ſo as aforeſaid to be diſcovered to the ſaid Truſtees, only excepted.

Expoſition of the covenants in the mortgage deeds.

SECT. 15. *And be it further enacted by the authority aforeſaid*, That, together with every of the mortgage deeds aforeſaid, the reſpective mortgagor ſhall execute a bond of double the mortgage money, conditioned, for the payment of the money borrowed, with the intereſt, according to the proviſo or condition contained in ſuch mortgage deed; and alſo a Warrant of Attorney, impowering ſuch perſon or perſons, as the reſpective Truſtees ſhall appoint, to confeſs or ſuffer judgment, which the ſaid Truſtees are hereby required to cauſe their Attorney to enter in any of the Courts of Common Pleas of this government againſt ſuch mortgagor as ſhall make default in payment of the mortgage money, or any part thereof on the ſaid bonds or mortgages, for non-performance of the conditions thereof, or in ſuch actions of debt, as the ſaid Truſtees are required to bring, for the value of the ſaid bills of credit received by the mortgagors, whoſe titles ſhall happen to prove defective, together with intereſt and coſts of ſuit, and in every ſuch Warrant of Attorney ſhall be inſerted a releaſe of errors by the mortgagor.

Mortgagors to execute bond and Warrant of Attorney.

SECT. 16. *Provided always nevertheleſs*, That until ſome default be made in payment of ſome part of the mortgage monies by the mortgagors reſpectively, it ſhall and may be lawful to and for them, and their heirs, to hold and enjoy the mortgaged premiſes, any thing in this act, or in their mortgage deeds to the contrary notwithſtanding; but if default ſhall be made or ſuffered in payment of any part of the mortgage monies aforeſaid, whether of the principal or intereſt, which the mortgagors, their heirs, executors, adminiſtrators

Mortgagors to enjoy the mortgaged premiſes until ſome default in payment.

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Truſtees may ſell mortgaged premiſes after two months default in payment.

niſtrators or aſſigns, ſhould or ought to pay, according to the days of payment aforeſaid, and as in the reſpective deeds of mortgage ſhall be ſpecified, it ſhall and may be lawful to and for the ſaid Truſtees for the time being, after two months after default made as aforeſaid, to enter upon the meſſuages, lands, rents, and hereditaments reſpectively, in the deeds of mortgage ſpecified, and the ſame thereupon to ſell and convey to the beſt purchaſer, and, out of the monies ariſing by ſuch ſale, to detain and keep the ſums thereon due unto them, with all coſts and charges relating thereunto, returning the overplus, if any be, to the owners of ſuch lands and hereditaments, who ſhall thereupon ſtand for ever foreclоſed of, and from all right of redemption of the ſame.

Good plate may be taken in ſecurity by the Truſtees.

SECT. 17. *Provided always, and it is hereby further enacted*, That it ſhall and may be lawful to and for the ſaid Truſtees, or any of them, at any time or times before the aforeſaid firſt day of June in the year of our Lord One Thouſand Seven Hundred and Seventy-three, to lend out in ſuch manner as to them ſhall ſeem beſt, any ſums in the bills aforeſaid, not exceeding Sixty Pounds, or leſs than Twelve Pounds, to one perſon, on ſecurity of good plate, at the value of Six Shillings per ounce, to be repaid to the ſaid Truſtees within twelve months, with the intereſt thereof, at the rate aforeſaid, and in caſe of the non-payment, to ſell and diſpoſe of ſuch plate for the moſt it will yield, returning the overplus, if any be, to the owner, after payment of the ſum lent, with the intereſt aforeſaid, and all charges thereupon accruing.

SECT. 18. *Provided always*, That where any part of the mortgage monies hath been paid, the Truſtees ſhall indorſe upon the writ of execution the real ſum of the principal and intereſt due to the ſaid Loan Office, and the Sheriff ſhall thereupon proceed, as in other caſes of ſale of lands, to ſell ſo much of the mortgaged premiſes, as near as he can judge, as will be ſufficient to pay the whole debt and coſts; and if any overplus remain in the Sheriff's hands, after the payment of the whole monies due to the ſaid Loan Officers, with the coſts and charges accrued thereupon,

the

the ſaid Sheriff ſhall render the ſame to the debtor or defendant, his or their executors or adminiſtrators, and put the ſaid purchaſer into peaceable and quiet poſſeſſion of the meſſuages, lands and tenements, ſo ſold as aforeſaid, who ſhall hold and enjoy the ſame to him, his heirs and aſſigns, as fully and amply as he or they for whoſe debt the ſame ſhall be ſold, might, could or ought to have done, at any time before the taking thereof in execution, freed and diſcharged from all claim of dower, by any perſon claiming under the defendant for whoſe debt the ſame was ſold.

Truſtees to indorſe receipts on the mortgage deeds, &c.

SECT. 19. *And be it further enacted by the authority aforeſaid*, That the ſaid Truſtees ſhall indorſe upon each mortgage deed the receipts for all the yearly quotas to be paid by the reſpective mortgagors, which they ſhall alſo note on the counter parts to them produced when required, for which receipts they ſhall be paid by the mortgagors Six-pence each, and no more; and upon the laſt payment thereof the ſaid Truſtees ſhall enter in the margin of the inrollment of the mortgage deed the time of the diſcharge thereof, for which they ſhall receive of the mortgagor Six-pence, and no more. And the ſaid Truſtees, or the Truſtees for the time being, ſhall keep diſtinct, fair and true accompts, of all the ſums they receive by virtue of this act, and the before recited acts reſpectively, and of what they ſhall from time to time re-emit by virtue of this act or pay by orders of Aſſembly of this government for the time being whether in part of principal or intereſt-money, and ſhall have and receive, for their trouble and ſervice the ſeveral ſums following, *That is to ſay*, The Truſtees of the county of New-Caſtle ſhall be allowed each Thirty Pounds per annum during the continuance of their truſt; and the Truſtees for the county of Kent ſhall have allowed them each Thirty Pounds per annum during the continuance of their truſt; and the Truſtees for the county of Suſſex ſhall be allowed each Thirty Pounds per annum during the continuance of their truſt, payable to each of them, his executors, adminiſtrators or aſſigns, in bills of credit, out of the intereſt money ariſing by this act.

and ſhall keep fair accounts.

Their ſalary.

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Shall account once in every year at leaſt with the Committees of Aſſembly.

Intereſt money to be diſpoſed of by the Aſſembly.

SECT. 20. *And be it further enacted by the authority aforeſaid*, That the Truſtees ſhall once in every year, or oftener, exhibit their accompts aforeſaid unto the Committees of Aſſembly of this government to be appointed for that purpoſe, with whom they ſhall from time to time ſettle and adjuſt the ſame; and all the intereſt money by them from time to time received being accounted for, and the ſalaries and charges allowed for by this act, being deducted, the reſidue thereof ſhall be diſpoſed of as the Aſſembly of this government ſhall direct and appoint; and as for and concerning all yearly quotas and payments in the bills aforeſaid (part of the principal ſums to be re-emitted upon loans as this act directs) which by virtue hereof, or of any mortgage, or ſecurity, heretofore taken, or to be taken as aforeſaid, ſhall be recovered and received, and remaining in the reſpective Loan Office on the firſt day of June which will be in the year of our Lord One Thouſand Seven Hundred and Seventy-five, the Truſtees of the reſpective Loan Offices aforeſaid, for the time being, ſhall exhibit the ſaid bills of credit to the aforeſaid Committees of Aſſembly, who, having duly examined and compared the ſame, ſhall cauſe the ſame to be burnt and deſtroyed in their preſence. And the ſaid Committee, of the reſpective counties within this government, ſhall have for their ſervice in ſettling the accompts of the reſpective Loan Offices, *That is to ſay*, The Committee for the county of New-Caſtle, the ſum of Five Pounds each; the Committee for the county of Kent, the ſum of Four Pounds each; and the Committee for the county of Suſſex, the ſum of Three Pounds each; to be paid them annually out of the intereſt money ariſing in the ſaid offices.

Allowance to Committees of the Aſſembly.

And, the better to prevent inconveniencies ariſing from indulging mortgagors to be behind in their payments, hereby directed to be made,

Truſtees to keep mortgagors up to their annual payments.

SECT. 21. *Be it further enacted by the authority aforeſaid*, That the Truſtees for the time being ſhall, and are hereby required to keep the mortgagors, in purſuance of this act, up to their annual payments, as by the ſame act is directed and appointed. And the Committees of Aſſembly, to be annually appointed to

audit

audit the ſaid Truſtees accompts, are hereby directed not to allow of any quotas in arrear and unpaid, which have been due eighteen months, at the time of their ſettlement with the ſaid Truſtees, excepting only ſuch ſums for which the Truſtees have commenced ſuit, or otherwiſe have proceeded according to the directions of this act, for the recovery of the money due.

Truſtees to chooſe Clerks;

SECT. 22. *And be it further enacted by the authority aforeſaid*, That the ſaid Truſtees ſhall, for the better regulating of their ſaid offices, chooſe and employ a fit and able perſon for their Clerk during their pleaſure, for whom they ſhall be anſwerable, who ſhall prepare the deeds of mortgage, with mortgagor's affidavits, bonds, warrants of attorney, and releaſe of errors, and ſhall have and receive the following fees, and no more, *to wit*, For every mortgage deed, recording the ſame, counter part or copy thereof, the mortgagor's oath or affirmation indorſed on the mortgage deed, and the bond, warrant of attorney, and releaſe of errors, the ſum of Fifteen Shillings, and no more, to be paid by the ſaid Truſtees out of the intereſt money aforeſaid; and the ſaid Clerks ſhall keep true accounts of the names of all perſons applying to borrow on ſecurities, as this act directs, and ſhall record their deeds of mortgage in the ſame order of time as they were executed, and ſhall, once a year, make out a liſt of the names of all mortgagors, with the ſums they borrow, and date of their mortgage deeds, and the ſame liſts ſhall deliver to the Committees of Aſſembly to be appointed Auditors of the ſaid Truſtees accompts: But before any perſon ſo choſen to be Clerk ſhall enter upon the execution of his office, he ſhall take an oath or affirmation before ſome Juſtice of the Peace, *That he will truly and faithfully perform the office and duty that is directed and required of him by this act, wherein he will make no undue preference, unneceſſary delays, or fraudulent practices.*

their fees and duty.

Clerk's qualification.

Counterfeiting the bills of credit, &c. felony of death without benefit of clergy.

SECT. 23. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall preſume to counterfeit any of the ſaid bills of credit, made current by this act, or any law of this government, by printing, or procuring the ſame to be printed, in the likeneſs of the ſaid genuine bills of credit; and alſo

if

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if any perſon or perſons ſhall forge the name or names of the ſigners of the true bills of credit, whether the counterfeiting of the ſaid bills or names be done within this government or elſewhere, or ſhall utter ſuch bills, knowing them to be ſo counterfeited as aforeſaid, and be thereof legally convicted by confeſſion, ſtanding mute, or by the verdict of twelve men, in any Court of Record within this government, having cognizance thereof, he, ſhe or they, ſhall ſuffer death, without benefit of clergy; and the diſcoverer or informer ſhall have, as an encouragement for his diſcovery, the ſum of Fifty Pounds, of the goods and chattels, lands and tenements, of the perſon convicted. And if no ſuch goods and chattels can be found, then the Truſtees of the General Loan Office ſhall pay to ſuch informer or diſcoverer, his executors, adminiſtrators or aſſigns, the ſum of Twenty Pounds. And if any perſon or perſons ſhall counterfeit any of the ſaid bills of credit of this government, by altering the denomination of the ſaid bills, with deſign to increaſe the value of ſuch bills, or ſhall utter ſuch bills, knowing them to be ſo counterfeited or altered as aforeſaid, and ſhall thereof be legally convicted in any Court of Record in this government as aforeſaid, ſuch perſon or perſons ſhall be ſentenced to the pillory, and to have both his, or her, ears nailed to the pillory, and cut off, and to be publicly whipped on his or her bare back with thirty-one laſhes well laid on; and moreover, every ſuch offender ſhall forfeit the ſum of One Hundred Pounds lawful money of this government, to be levied on his or her lands and tenements, goods and chattels, the one half to the uſe of the Governor, and the other half to the diſcoverer; and the offender ſhall pay to the party grieved double the value of the damages thereby ſuſtained, together with the coſts and charges of proſecution; and in caſe the offender hath not ſufficient to ſatisfy the diſcoverer for his or her damages and charges, and pay the forfeiture aforeſaid, in ſuch caſe the offender ſhall, by order of the court where he or ſhe was convicted, be ſold for any term not exceeding ſeven years for ſatisfaction, and in ſuch caſe the ſaid Truſtees ſhall reward the diſcoverer of ſuch inſolvent offender to the value of

Informer to receive Fifty Pounds.

Ten

Ten Pounds; and every ſuch counterfeited bill ſhall be delivered to any of the ſaid Truſtees, to be made uſe of upon the trial of the perſon accuſed or ſuſpected, and afterwards be burnt and deſtroyed by the ſaid Truſtees in the preſence of the Committee of Aſſembly.

Seven Thouſand Pounds given to the King's uſe,

SECT. 24. *And be it further enacted by the authority aforeſaid*, That the ſum of Seven Thouſand Pounds, the reſidue of the bills of credit aforeſaid, ſhall be and is hereby given to his Majeſty's uſe. *(d)*

Truſtees of New-Caſtle county to receive the ſaid bills;

SECT. 25. *And be it further enacted by the authority aforeſaid*, That the ſaid ſum of Seven Thouſand Pounds in bills of credit, being ſigned and numbered as aforeſaid, ſhall be delivered by the ſaid ſigners to the Truſtees of the General Loan Office for the county of New-Caſtle for the time being, whoſe receipt ſhall be a diſcharge to the ſaid ſigners for the ſaid bills: But before the Truſtees ſhall receive the ſaid bills they ſhall enter into a bond, with two good ſureties, taken by the ſaid ſigners, in the name of the Governor, or Commander in Chief of this government, for the time being, and his ſucceſſors in truſt for the public, in the ſum of Fourteen Thouſand Pounds, conditioned, that they will not emit or pay any of the ſaid bills of credit to any perſon or perſons but to the Commiſſioners herein after appointed to receive the ſame, or to their order, or the order of the majority of them, or the ſurvivors of them, which bond the ſaid ſigners ſhall lodge in the Prothonotary's Office for the county of New-Caſtle, and take the receipt of the Prothonotary for the time being for the ſame, which receipt ſhall be returned by the ſaid ſigners to the next Aſſembly of this government.

to give bond; &c.

Truſtees to pay to the Commiſſioners by this act appointed the ſaid bills,

SECT. 26. *And be it further enacted by the authority aforeſaid*, That the ſaid Truſtees, after their receipt of the ſaid bills of credit ſigned and numbered as aforeſaid, ſhall pay the ſame into the hands, or unto the order, of John Finney, George Monro, Cæſar Rodney, Joſeph Caldwell, David Hall and Jacob Kollock,

(d) See after in chap. 178. a. ſect. 12. for a repeal of ſo much hereof as relates to this grant and the fund herein after provided for ſinking the ſame.

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Kollock, jun. gentlemen, who are hereby appointed Commiſſioners, for receiving the ſame; the which ſaid Commiſſioners, or a majority of them, or the ſurvivors of them, with the conſent and approbation of the Governor, or Commander in Chief of this government, for the time being, and not otherwiſe, ſhall order and appoint the diſpoſition of the ſaid ſum of Seven Thouſand Pounds ariſing by virtue of this act, for and towards the levying, cloathing and paying, one hundred and eighty men, officers included, to be employed in conjunction with a body of his Majeſty's Britiſh troops, and the forces of the colonies to the ſouthward of New-Jerſey, under the Commander in Chief in thoſe parts, in ſuch offenſive operations as ſhall be judged by the ſaid Commander moſt expedient for annoying the enemy, and moſt efficacious towards removing and repelling the dangers that may threaten this, or any of the ſaid colonies, during the preſent campaign.

Forces to be raiſed.

Camp equipage to be purchaſed for the Officers.

SECT. 27. *Provided always, and it is hereby enacted*, That the ſaid Commiſſioners, or a majority of them, or the ſurvivors of them, ſhall diſpoſe of the ſum of Two Hundred and Forty Pounds, part of the ſaid Seven Thouſand Pounds to be raiſed by this act, towards the purchaſing camp equipage for the commiſſioned officers only, allowing to each Captain the ſum of Thirty Pounds, and to each Subaltern the ſum of Twenty-five Pounds. And in caſe of the death, malfeazance, incapacity or removal, of any of the ſaid Commiſſioners, by this act appointed, or of any other that ſhall be appointed and nominated hereafter, it ſhall and may be lawful, to and for the Aſſembly of this government, for the time being, to nominate and appoint ſome other fit perſon or perſons in his or their place and ſtead, who ſhall have the ſame power and authority as if they had been nominated and appointed by virtue of this act; but until ſuch appointment be made, the ſurviving or remaining Commiſſioners, already appointed by this act, or a majority of them, ſhall be and are hereby impowered to execute the aforeſaid duty and truſt.

SECT. 28. *And be it further enacted by the authority aforeſaid*, That the ſaid Commiſſioners, or the ſurvi-

vors

vors of them, or a majority of the ſaid ſurvivors, ſhall at leaſt once in every year exhibit their accompts of the aforeſaid Seven Thouſand Pounds unto a Committee of Aſſembly of this government, to be appointed for that purpoſe, with whom they ſhall from time to time ſettle and adjuſt the ſame.

Commiſſioners to account once at leaſt in every year with a Committee of Aſſembly.

And, to the end that the ſaid ſum of Seven Thouſand Pounds in bills of credit, hereby given to his Majeſty's uſe, may be ſunk and deſtroyed within the term of five years,

The manner of ſinking the Seven Thouſand Pounds.

SECT. 29. *Be it enacted by the authority aforeſaid*, That the Juſtices, Grand Jurymen and Aſſeſſors, of each reſpective county, at the uſual time of holding their Levy Courts, ſhall, over and above the tax laid for diſcharging the county rates and levies upon the freeholders and inhabitants, lay an additional tax of Six-pence in the Pound, and in every other reſpect ſhall act and proceed in the ſame manner as by an act of Aſſembly of this government, intituled, *An act for ſtriking Four Thouſand Pounds in bills of credit, and granting the ſame to his Majeſty's uſe, and providing a fund for ſinking the ſame*, they are enjoined and directed. *(e)*

Tax to commence June 13 1763.

SECT. 30. *Provided always, and it is hereby enacted by the authority aforeſaid*, That the aforeſaid additional tax of Six-pence in the Pound ſhall not commence, or take place, until the firſt day of June in the year of our Lord One Thouſand Seven Hundred and Sixty-three, and ſhall be continued from that time, yearly, until the firſt day of June One Thouſand Seven Hundred and Sixty-eight, any thing herein contained to the contrary notwithſtanding. *(e)*

SECT. 31. *And be it further enacted by the authority aforeſaid*, That all the ſum or ſums of money, levied by the Collectors of the ſeveral counties by virtue of this act, ſhall be paid by the ſaid Collectors to the Truſtees of the General Loan Office of the ſaid county in bills of credit made current by this act, which ſaid bills ſhall be yearly produced by the ſaid Truſtees to the

(e) This ſect. 29, and to ſect. 34, inclusive, repealed and ſupplied in chap. 178, 2, ſect. 5, &c, to the end of the act.

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the Committee of Aſſembly for that purpoſe appointed, and in their preſence to be burned and deſtroyed.*(e)*

SECT. 32. *And be it further enacted*, That the ſaid Truſtees ſhall give to the ſaid Collectors their receipts for all ſuch ſums as ſhall be ſo as aforeſaid paid to them, which receipts, produced by the ſaid Collectors to the next Levy Court, ſhall be allowed of, and adjudged ſufficient to diſcharge the ſaid Collectors for the ſums therein ſpecified.*(e)*

Collectors allowance.

SECT. 33. *And be it further enacted by the authority aforeſaid*, That the Collectors ſhall have and retain in their hands, for all ſums of money by them reſpectively collected as aforeſaid, the ſum of Five Pounds per cent. and no more; and the ſaid Collectors, before they enter on the execution of their offices, ſhall enter into bonds to the Truſtees of each county reſpectively, with good ſecurity, in ſuch ſum as they ſhall direct, for the faithful performance of the duties required of them by this act.*(e)*

SECT. 34. *And be it further enacted by the authority aforeſaid*, That if the five yearly taxes, to be levied by virtue of this act, ſhall not be ſufficient to ſink the ſaid ſum of Seven Thouſand Pounds, in bills of credit, and defray all incident charges, then a further additional tax or taxes of Six-pence in the Pound ſhall be laid and levied in manner as is herein before directed, until the ſum of Seven Thouſand Pounds in bills of credit is completely ſunk and deſtroyed. But if the ſaid yearly tax ſhall raiſe more than the ſum of Seven Thouſand Pounds within the ſaid term of five years (incidental charges included) the overplus ſhall be diſpoſed of by the joint conſent of the Governor and Commander in Chief of this government, for the time being, and the Aſſembly, and not otherwiſe.*(e)*

Officers, &c. diſabled to be maintained by the public.

SECT. 35. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons, either officers or ſoldiers, ſhall be wounded or diſabled in any engagement, or in any military ſervice under this act, he or they ſhall be taken care of, ſupported and maintained, according to his rank and dignity, at the public charge of this government, according to

the

the proportion act, during the time of his or their diſability.

And, for the due regulation of the forces to be raiſed in this government,

Officers and ſoldiers to be ſubject to ſame laws, &c. as his Majeſty's Britiſh forces.

SECT. 36. *Be it further enacted by the authority aforeſaid*, That all officers to be commiſſioned and in pay, by virtue of this act, and ſuch ſoldiers as ſhall voluntarily engage, or be inliſted, at any time after the publication of this act, and be paid and maintained by the crown at the charge of this government, ſhall be ſubject to the ſame laws, rules, duties and trials, and be liable to the ſame puniſhment, during the continuance of this act, whether within this government or out of the ſame, as they would by an act of Parliament paſſed in the twenty-ninth year of the preſent reign, intituled, *An act for puniſhing mutiny and deſertion*, &c. if joined by any of his Majeſty's Britiſh forces.

Public act.

SECT. 37. *And it is hereby declared and enacted by the authority aforeſaid*, That this act ſhall be taken and allowed in all courts and places within this government as a public act; and all judges and juſtices, and other perſons concerned, are hereby required to take notice thereof as ſuch, without pleading the ſame ſpecially.

Paſſed May 7, 1759.

CHAP. CLXIII. a.

An ACT *for the better relief of the poor in the county of Kent.*—Repealed by chap. 179. a. but ſee the note at chap. 88. a. 15 Geo. II. 1759.

CHAP. CLXIV. a.

An ACT *for keeping in good repair the cauſey and bridge over the Broadkill creek in Suſſex county, and for regulating the toll for paſſing the ſame.*—Repealed and ſupplied in chap. 64. b. paſſed June 16, 1780. 1759.

CHAP. CLXV.

CHAP. CLXV. a.

1759. *An* ACT *for reviving, amending and continuing, an act of Aſſembly of this government, made in the ſeventeenth year of his Majeſty's reign, intituled, "An act for the more eaſy and ſpeedy recovery of ſmall debts."* Temporary—again revived, and the whole re-enacted, chap. 185. a.

CHAP. CLXVI. a.

1759. *An* ACT *for the better regulation of the King's roads in Kent county.*—Repealed. See after in chap. 176. a. ſect. 9.

CHAP. CLXVII. a.

1760. *An* ACT *for the better regulation of the Supreme Court within this government.*

WHEREAS an act of the Aſſembly of this government, intituled, *An act for the eſtabliſhing Courts of Law and Equity within this government,* (a) has not anſwered all the good purpoſes intended by the ſaid act;

SECTION 2. *BE it therefore enacted by the honorable James Hamilton, eſq.* (b) *Lieutenant Governor, and Commander in Chief of the government of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, under the honorable Thomas Penn, and Richard Penn, eſquires, true and abſolute proprietaries of the ſaid government and province aforeſaid, by and with the*

(a) In chap. 54. a.

(b) James Hamilton, eſquire, came into the government a ſecond time in November 1759, and continued until October 29, 1763.

CHAP. CLXVII. 1760.

the advice and conſent of the Repreſentatives of the freemen of the ſaid government, in General Aſſembly met, and by the authority of the ſame, That from and after the publication of this act, the Supreme Court of this government ſhall be held and kept twice in every year in each county of this government, *That is to ſay,* At New-Caſtle, for the county of New-Caſtle, on the twenty-ſeventh day of April, and twenty-third day of October; at Dover, for the county of Kent, on the twenty-eighth day of October, and the Monday before the Court of Common Pleas in May; and at Lewes, for the county of Suſſex, on the Monday before the County Court of Common Pleas in May and November; and if the ſame days, or either of them, (in the ſaid months of April and October) ſhall happen to be Sunday, then, and in every ſuch caſe, the ſaid court ſhall be held on the next day following; *(c)* which ſaid court ſhall be called and ſtiled, the Supreme Court of the government of the counties of New-Caſtle, Kent and Suſſex, on Delaware. And that there ſhall be four perſons of known integrity and ability commiſſionated by the Governor for the time being, by ſeveral diſtinct patents, or commiſſions, under the Great Seal of this government, to be judges of the ſaid court; one of whom ſhall be diſtinguiſhed in his commiſſion by the name of Chief Juſtice: *(d)* And each of the ſaid judges ſhall have full power and authority, when and as often as there ſhall be occaſion, to iſſue forth writs of *Habeas Corpus, Certiorari,* and writs of error, and all remedial writs, or other proceſs neceſſary for bringing the cauſes in the ſaid court to trial, and for carrying the judgments or decrees of ſaid court into execution. *(e)* and *(f)*

Supreme Court to be held twice in every year.

Stile of the court;

to be four judges thereof.

SECT.

(c) See chap. 177. a. An alteration of the days for holding this court in the ſeveral counties. And for ſubſequent alterations ſee chap. 193. a.—chap. 5. b. paſſed Feb. 22, 1777.—chap. 19. c. paſſed June 14, 1793, and chap. 61. c. paſſed February 7, 1794.

(d) See art. 12. of the ſyſtem of government for this ſtate, framed in September 1776.—And art. 6. ſects. 1, 2, 3, of the conſtitution adopted in June 1792, for after regulations as to the ſtile of this court and number of the judges, &c.

(e) See alſo ſects. 5, 6, 9. of the ſaid art. 6. for other powers of a ſingle judge,

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Any two have power to hear and determine cauſes, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the ſaid judges, or any two of them, ſhall have full power and authority to hold the ſaid court, and to hear and determine all and all manner of pleas, plaints and cauſes, which ſhall be removed or brought there from the reſpective General Quarter Seſſions of the Peace, and County Courts of Common Pleas, or from any other court of law or equity within this government, by virtue of any of the ſaid writs, or by appeal; and to examine and correct all and all manner of errors of the juſtices, or magiſtrates, within this government, in their judgments, proceſs or proceedings, in the ſaid courts, as well in all pleas of the crown, as in all pleas real, perſonal or mixt, and their decrees in ſuits in equity; and thereupon to reverſe or affirm the ſaid judgments, or decrees, as the law doth or ſhall direct, or ſhall be agreeable to equity; and alſo to examine, correct and puniſh, the contempts, omiſſions, neglects, favours, corruptions and defaults, of all, or any, of the Juſtices of the Peace, Sheriffs, Coroners, Clerks, and other officers, within this government; and alſo ſhall award proceſs for levying all ſuch fines, forfeitures and amerciaments, as ſhall be taxed, impoſed or ſet, in the ſaid Supreme Court, or eſtreated there; and generally ſhall miniſter juſtice to all perſons, and exerciſe the juriſdictions and powers hereby granted them, concerning all and ſingular the premiſes, according to law and equity, as fully and amply to all intents and purpoſes whatſoever, as the Juſtices of the King's Bench and Common Pleas, at Weſtminſter, or the Chancellor of England, may or can do; ſaving to all, and every perſon or perſons, his, her or their heirs, executors, and adminiſtrators, their right of appeal from the final ſentence, judgment or decree of the ſaid court, to his Majeſty in council, or to ſuch court or courts, judge or judges, as by our lord the King, his heirs or ſucceſſors, ſhall be appointed in that part of Great Britain called England,

and to correct the errors of juſtices, puniſh the defaults, &c. of officers, award proceſs for levying fines, &c.

and generally miniſter juſtice as in the King's Bench, Common Pleas and Chancery in England.

Any perſon may appeal from their judgment.

to

to receive, hear and judge of appeals from his majeſty's plantations; *(f)*

Appellant to pay coſts and give bond, &c.

SECT. 4. *Provided* the perſon or perſons appealing ſhall, upon entering his, her or their appeal in the ſaid court, pay all the coſts before that time expended in the proſecution or defence of the ſaid ſuit, and ſhall enter into bond, with two good and ſufficient ſureties, in the double the ſum recovered in the ſaid court, to the defendant or defendants in the appeal, conditioned, to proſecute the ſaid appeal with effect, within the ſpace of eighteen months next after the entry of ſuch appeal, and to ſatisfy the judgment of the court from whence he or they ſhall appeal, and further to pay all ſuch coſts and damages as ſhall be adjudged to be paid, by him, her or them, in caſe a ſentence, judgment or decree paſs againſt the ſaid appellant, or in caſe he, ſhe or they, fail to proſecute their appeal with effect, and execution ſhall be ſuſpended until the final determinations of ſuch appeals, unleſs good and ſufficient ſecurity be given by the appellee to make ample reſtitution of all that the appellant ſhall have loſt by means of ſuch judgment or decree, in caſe upon the determination of ſuch appeal ſuch judgment or decree ſhould be reverſed, and reſtitution awarded to the appellant. *(f)*

Execution to be ſuſpended, unleſs the appellee gives ſecurity, &c.

Stile of the writs.

SECT. 5. *And be it further enacted*, That all the ſaid writs ſhall be granted of courſe, and made in the name and ſtile of the King, his heirs and ſucceſſors, and ſhall bear teſt in the name of the Chief Juſtice for the time being; but if he be the plaintiff or defendant, in the name of one of the other juſtices, and ſhall be ſealed with the judicial ſeal of the ſaid court, ſigned by one of the judges, and made returnable to the next court after the date of ſuch writ. *(f)*

None of ſaid judges ſhall ſit in inferior courts.

SECT. 6. *Provided always*, That none of the Judges of the ſaid Supreme Court ſhall ſit judicially in any of

(f) For the exiſting alterations in the laſt paragraph of ſect. 2. and of ſects. 3, 4, 5, 7. of this act. ſee chap. 227. b. ſect. 2. paſſed January 29, 1791.—The conſtitution of the State of Delaware adopted in June 1792. arts. 6. 7.—The "act to regulate the courts in this ſtate," paſſed June 14, 1793. chap. 19. c.—And the act to amend the ſame. paſſed Feb. 7, 1794. chap. 61. c.

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of the ſaid Courts of Common Pleas, Quarter Seſſions, or any other inferior court of this government.

The ſaid judges to deliver gaols, &c.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That the ſaid Judges of the ſaid Supreme Court, or any two of them, ſhall have power, and are hereby authorized and impowered, from time to time, when there ſhall be occaſion, to deliver the gaols of all perſons which now are, or ſhall hereafter be committed for treaſons, murders, and ſuch other crimes as by the laws of this government now are, or hereafter ſhall be, made capital, or felonies of death; and for that end, from time to time, to iſſue forth ſuch neceſſary precepts and proceſs, and force obedience thereunto, as Juſtices of Aſſize, Juſtices of Oyer and Terminer and Gaol Delivery, may or can do in the realm of Great Britain. *(f)*

Fees in Supreme Court to be double of what is taken in Quarter Seſſions.

SECT. 8. *Provided always*, That the fees due to the judges *(g)* and officers of the ſaid court, for hearing any of the ſaid capital offences, or any thing done there, ſhall be double the fees uſually taken in the General Quarter Seſſions held in any of the ſaid counties in this government, *(h)* any thing herein contained, or in any other law of this government, to the contrary notwithſtanding.

No cauſe now depending to be diſcontinued by this act, &c.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That no plea, cauſe or action, now depending in the Supreme Court of this government, ſhall be diſcontinued, but that the ſame may be heard, tried and determined, before the judges to be appointed in purſuance of this act, as fully as the ſame could have been heard, tried and determined, before the making of this act; and that no action of treſpaſs and ejectment, now depending therein, ſhall be determined by the expiration of the term ſet forth in the demiſe mentioned in the declaration, but that the plaintiff in ſuch action may proſecute the ſame, and, if judgment ſhould be given for him, recover his poſſeſſion, in

(g) By art. 6. ſect. 2. of the conſtitution of this ſtate of June 1792, the judges are not to receive any fees or perquiſites, except ſuch as ſhall be fixed by law, for buſineſs to be done out of court; for which ſee chap. 27. c. ſects. 3. 4. paſſed June 15, 1793.

(h) See chap. 27. c. ſects. 7, 9, 13, 15, 25, 28.

in the ſame manner that he might or could have done if the ſaid term had not expired.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That no cauſe, hereafter to be removed into the ſaid Supreme Court, ſhall, upon any pretence whatſoever, depend or continue therein longer than till the third term after that to which the writ or proceſs removing the ſame ſhall be returnable, or to which an appeal ſhall be made as aforeſaid, and then the parties ſhall be obliged to come to trial; unleſs the party, plaintiff or defendant, deſiring to put off the ſame, ſhall make an affidavit before one of the judges, That ſome material witneſs for him, her or them, without whom he, ſhe or they, cannot ſafely go on trial, is ſick and unable to travel, or out of the reach of the court's proceſs; and in ſuch caſe only, the judges may direct the trial of the ſaid cauſe to be put off to the next ſucceeding court, and no longer.

No cauſe to depend longer in ſaid court than three terms, unleſs, &c.

SECT. 11. *And be it further enacted by the authority aforeſaid*, That the Chief Juſtice, and other Judges, of the ſaid Supreme Court, for the time being, ſhall be allowed the ſame ſalaries and expences, beſides the common court fees, as in and by an act of Aſſembly, intituled, *An act allowing a ſalary to the Juſtices of the Supreme Court within this government*, are allowed to the ſaid juſtices. *(i)*

Salary to the judges.

SECT. 12. *And be it further enacted by the authority aforeſaid*, That the Attornies at Law, to be hereafter admitted to practiſe in the ſaid Supreme Court, ſhall take the ſame qualifications, and have the ſame privileges as they would have done, or might have had, by the laws of this government, if they had been admitted to practiſe in the Supreme Court before the making of this law. *(k)*

Attornies at Law hereafter to be admitted to have ſame privileges as thoſe already admitted, &c.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That the act of Aſſembly, entituled, *An act for eſtabliſhing Courts of Law and Equity within this government*, ſo far as the ſame relates to the eſtabliſhing a Supreme Court within this government, and every clauſe concerning the ſame be, and is hereby repealed, annulled and made void.

Repeal of former act about Supreme Court.

Paſſed April 28, 1760.

CHAP.

(i) See the note at (f) before.

(k) See before in chap. 13. a. and chap. 54. a. ſects. 26, 27.

CHAP. CLXVIII.

CHAP. CLXVIII. a.

1760. *An* ACT *for appointing an Agent,(a) reſiding in England, for this government.* Obſolete.

(a) David Barclay, jun. of the City of London, Merchant.

CHAP. CLXIX. a.

1760. *An* ACT *for ſtriking Four Thouſand Pounds in bills of credit, aud giving the ſame to the King's uſe, and for the providing a fund for ſinking the ſame.* Repealed.

CHAP. CLXX. a.

1760. *A further Supplement to the act, entituled,* An act for the better regulation of ſervants and ſlaves within this government.*(a)*

Preamble. WHEREAS the children of white women by Negro or Mulatto fathers, and the deſcendants of ſuch children and Negroes, entitled to their freedom, are frequently held and detained as ſervants, or as ſlaves, by perſons pretending to be their maſters and miſtreſſes, when they ought not by the laws of this government to be ſo held and detained, and frequently are ſold as ſlaves by ſuch pretended maſters or miſtreſſes to perſons who reſide in other governments, with a fraudulent deſign to prevent their procuring proof of their being entitled to their freedom; and whereas the laws of this government are defective in not preſcribing any mode for ſettling and determining,

(a) For the original act ſee chap. 77. a. 13 Geo. II—A ſupplementary act thereto, chap. 129. a. 25 Geo. II—Another ſupplement hereafter in chap. 188. a. paſſed October 31, 1767.

determining, in a ſhort and ſummary manner, the claim, or right, of any perſons pretending to be entitled to their liberty;

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor, and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That the Juſtices of the reſpective County Courts of Common Pleas within this government, upon any petition to them to be preferred by any perſon, or his or her parent, or friend, ſetting forth that ſuch perſon is kept, held or detained as a ſervant or ſlave, by his or her pretended maſter, or miſtreſs, maſters or miſtreſſes, and that ſuch perſon apprehends that he or ſhe is entitled to his or her freedom, the ſaid juſtices ſhall iſſue a ſummons againſt ſuch maſter or miſtreſs, maſters or miſtreſſes, commanding him, her or them, to come before the ſaid juſtices at a certain day therein to be appointed, to anſwer the ſaid complaint; and to iſſue *Subpœnas*, to the Sheriff of the county directed, for ſummoning and bringing any perſon or perſons before them at the ſaid day, to give evidence in and upon the matters in ſuch petition contained, under ſuch pains and penalties, as by the rules and practice of the ſaid court in other caſes are uſually appointed, and after hearing the proofs and allegations of the parties in a ſummary way, it ſhall and may be lawful to and for the ſaid juſtices, if they are ſatisfied that the perſon ſo petitioning, or on whoſe behalf ſuch petition ſhall be preſented, is entitled to his or her freedom, to diſcharge ſuch perſon from the ſervice of his or her pretended maſter or miſtreſs, maſters or miſtreſſes, and to adjudge, and decree, that ſuch perſon is and ſhall be free and at liberty, and ſhall and may enjoy all the benefits and advantages that a free Negro, or free Mulatto, may or can do within this government: And if the pretended maſter or miſtreſs, maſters or miſtreſſes, of any perſon ſo petitioning, being ſummoned as aforeſaid,

Courts of Common Pleas may, upon petition, hear complaints of perſons unjuſtly detained as ſervants or ſlaves in a ſummary way, and ſet them free;

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aforeſaid, ſhall not appear, it ſhall and may be lawful for the ſaid juſtices to proceed as aforeſaid in his, her or their abſence, on hearing the proofs and allegations on the part of the ſaid petitioner only.

and grant execution to the Sheriff for that purpoſe.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That after the judgment or decree given in any ſuch caſe as aforeſaid, the juſtices of the court that gives the ſame ſhall thereupon grant an execution, directed to the Sheriff of the county, commanding him to take the perſon ſo diſcharged from the cuſtody of his or her pretended maſter or miſtreſs, and to ſet ſuch perſon at liberty; and in caſe ſuch perſon ſhall be concealed or detained by ſuch pretended maſter or miſtreſs, ſo that the Sheriff cannot find ſuch perſon, in order to ſet him or her at liberty, then, upon return being made thereof to the ſaid juſtices, and proof thereof made to their ſatisfaction, they ſhall immediately iſſue a precept to the ſaid Sheriff, commanding him to attach and ſeize ſuch pretended maſter or miſtreſs, and him or her in ſafe and cloſe cuſtody keep, until the perſon ſo diſcharged by the court, and concealed or detained as aforeſaid, ſhall be produced in the ſaid court by ſuch pretended maſter or miſtreſs: And in caſe the ſaid Sheriff ſhall not keep ſuch pretended maſter or miſtreſs in ſafe and cloſe cuſtody as aforeſaid, ſuch Sheriff, for ſuch default, ſhall be liable to pay One Hundred Pounds, lawful money of this government, to the party aggrieved, to be recovered, by him or her, in an action of debt to be brought by the ſaid party againſt the ſaid Sheriff, his executors or adminiſtrators, in any Court of Record within this government; in which action, or in any other action or proceeding, this law ſhall be conſtrued, deemed, taken and allowed, as and for a public act of Aſſembly, though the ſame be not pleaded; and the juſtices of the ſaid court ſhall accordingly take notice thereof as ſuch.

A public act.

The perſon ſo freed may maintain an action againſt the pretended maſter, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That any perſon ſo freed and diſcharged ſhall and may thereupon bring and maintain an action of treſpaſs and falſe impriſonment, or any other action in the law, that may be proper in ſuch caſe, againſt ſuch pretended maſter or miſtreſs, for unlawfully

fully holding and detaining ſuch perſon as aforeſaid, before or after his or her diſcharge, and the judgment or decree by which ſuch perſon ſhall be diſcharged as aforeſaid ſhall be admitted and allowed in every Court of Record within this government as good proof, and ſufficient evidence, that ſuch perſon is entitled to his or her liberty.

Penalty on any perſons ſelling a free man out of this government.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any perſon entitled to his or her liberty has been, or hereafter ſhall be, ſold by his or her pretended maſter or miſtreſs to any perſon who reſides, or at the time of ſuch ſale did reſide, out of this government, ſuch maſter or miſtreſs reſpectively ſhall forfeit the ſum of One Hundred Pounds, lawful money of this government, for ſuch offence, one moiety thereof to go to the Governor towards the ſupport of government, and the other moiety thereof to the party grieved, to be recovered by bill, plaint or information, in any Court of Record within this government, wherein no eſſoin, protection, or wager of law, ſhall be allowed.

SECT. 6. *Provided nevertheleſs*, That where any perſon entitled to his or her liberty has been ſold out of this government before the making of this act, the pretended maſter or miſtreſs who ſold ſuch perſon ſhall not incur the penalty aforeſaid, if he or ſhe ſhall within ſix months after the making ſuch judgment or decree as aforeſaid bring back the perſon ſo ſold into this government, or make ſufficient proof that ſuch perſon is dead.

All coſts by virtue of this law to be paid by the maſter, &c.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That all coſts accruing, or to accrue, for or by reaſon of any action or proceeding by virtue of this law, ſhall be paid and defrayed by the maſter or miſtreſs of any perſon applying or ſuing as aforeſaid, to be levied of the goods and chattels of ſuch maſter or miſtreſs, on an execution to be iſſued againſt him or her, to the Sheriff of the ſaid county directed, by the juſtices who give any decree or judgment as aforeſaid; and in caſe ſuch maſter or miſtreſs has not goods and chattels ſufficient to pay the ſaid coſts, then the perſon of ſuch maſter or miſtreſs ſhall be taken in execution by the ſaid Sheriff, and he or ſhe ſhall remain

main

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main in the ſaid Sheriff's cuſtody until the ſame be paid.

Paſſed October—1760.

CHAP. CLXXI. a.

1760. *An* ACT *for repealing an act of Aſſembly of this government, intituled,* An act impowering the Magiſtrates of New-Caſtle county to view and direct the removal of obſtructions to the fiſhery of Brandywine. *(a)*

WHEREAS the principal end of the ſaid act was the preſervation of peace, and promoting harmony between the inhabitants of this government and the Indians, then reſiding near Brandywine creek, who are now all entirely removed from thence: *And whereas* the building of good mills within this government has been found a public benefit, and ought therefore to be encouraged; and the ſaid recited act is found by experience to be prejudicial thereto,

BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That the ſaid act, intituled, *An act impowering the Magiſtrates of New-Caſtle county to view and direct the removal of obſtructions to the fiſhery of Brandywine,*" and every matter, clauſe and thing, therein contained, is hereby repealed, and declared to be null and void.

Paſſed October—1760.

CHAP.

(a) Chap. 361. a.

CHAP. CLXXII. a.

CHAP. CLXXII.

1760.

A Supplement to an act, intituled, "An act to encourage the building of good mills within this government." Repealed in chap. 221. a. paſſed November 6, 1773.

Note. For this act ſee the appendix.

CHAP. CLXXIII. a.

A Supplement to an act, intituled, "An act for the better regulation of the King's roads in Kent county. Repealed. 1760.

Note. For the original ſee chap. 166. a.

CHAP. CLXXIV. a.

An ACT *to authorize and impower Benjamin Chew, and William Plumſtead, eſquires, of the City of Philadelphia, to draw for the ſum of Three Thouſand and Seventy-five Pounds, Nine Shillings and Eleven-pence, ſterling, now in the hands of the Agent of this government reſiding in London, and to direct the appropriation of the ſaid money.* 1761.

Preamble.

WHEREAS, by an act of General Aſſembly of this government, paſſed in the thirty-third year of his late Majeſty, intituled, *An act for appointing an Agent, reſiding in England for this government,* (a) David Barclay, junior, of the City of London, merchant, was nominated, conſtituted and appointed Agent for this government, and impowered to receive, from any perſon or perſons who ſhould have the payment thereof in England, ſuch proportionable ſhare or part of the money given, or to be given, by the Parliament, as a compenſation for ſuch expences as the reſpective colonies in North-America ſhould

(a) Ante chap. 168. a—and ſee after chap. 178. a.

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ſhould be put to, in levying, cloathing and paying the forces raiſed by them, as his ſaid Majeſty in his wiſdom ſhould think the ſaid colonies, according to the active vigour and ſtrenuous efforts of each ſhould juſtly appear to merit: And that all ſuch ſum or ſums of money as the ſaid David Barclay ſhould receive, by virtue of the ſaid act, ſhould remain in his hands until the ſame ſhould be thereafter diſpoſed of by an act of the General Aſſembly of this government, and then ſhould be paid by him to ſuch perſons, and to ſuch purpoſes, as ſhould be thereby named and directed.

SECTION. 2. *And whereas*, by two letters from the ſaid David Barclay, junior, laid before the Houſe by the honorable James Hamilton, eſq. Lieutenant Governor and Commander in Chief of the government of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, it appears, that the ſaid David Barclay, jun. as Agent of this government, hath, ſome time ſince, received, as the diſtributive ſhare or proportion of the money allotted to this government, in virtue of the Parliamentary grant for the year One Thouſand Seven Hundred and Fifty-eight, the net ſum of Three Thouſand and Seventy-five Pounds, Nine Shillings and Eleven-pence, ſterling, after deducting the fees and charges by him paid at the treaſury and exchequer:

SECT. 3. *Be it therefore enacted by the honorable James Hamilton, eſq. Lieutenant Governor and Commander in Chief of the government of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietaries of the ſaid government and province, by and with the conſent of the Repreſentatives of the freemen of the ſaid government in General Aſſembly met, and by the authority of the ſame*, That the ſaid David Barclay, jun. ſhall have and retain one half per cent. for his care and trouble in receiving, and one half per cent. for paying, the ſaid ſum of Three Thouſand and Seventy-five Pounds, Nine Shillings and Eleven-pence, ſterling, and no more.

SECT. 4. *And* the ſaid Benjamin Chew and William Plumſtead,

Plumſtead, or either of them, are hereby authoriſed, impowered and directed, within the ſpace of ſix weeks, after the paſſing of this act, to draw bills of exchange in their own names, or either of them, but for the uſes and purpoſes herein after directed, on the ſaid David Barclay, jun. payable at thirty days ſight, for the whole reſidue and remainder of the ſaid ſum of money in his hands, and ſhall ſell, vend and diſpoſe of, the ſaid bills of exchange to the beſt advantage, and for the moſt that can be had or procured for the ſame.

Bills of exchange to be drawn on Agent in England for Three Thouſand and Seventy-five Pounds Nine Shillings and Eleven pence ſterling.

SECT. 5. *And* the ſaid Benjamin Chew and William Plumſtead, or either of them, ſhall, within the further ſpace of ſix weeks after drawing the ſaid bills of exchange, pay and deliver over all the money which they, or either of them, ſhall receive for the ſaid bills of exchange, (deducting thereout one half per cent. for receiving, and one half per cent. for paying the ſame, which is hereby allowed them for their care and trouble, and no more) to the ſeveral Truſtees of the General Loan Offices of this government, in the ſeveral ſhares and proportions following, *That is to ſay*, one half part, or five tenths, of the ſaid money, to the Truſtees of the General Loan Office for the county of New-Caſtle; three tenths to the Truſtees of the General Loan Office for the county of Kent; and the remaining two tenths to the Truſtees of the General Loan Office for the county of Suſſex; *(b)* and take their reſpective receipts for the ſame, which ſhall be a full diſcharge to the ſaid Benjamin Chew and William Plumſtead, or either of them, for the ſame.

And the money received for the ſame bills to be paid to the Truſtees of the Loan Offices, according to the proportion act.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That the Truſtees of the General Loan Office for the county of New-Caſtle ſhall enter into bond, with two ſufficient ſureties, in the ſum of Five Thouſand Pounds, in the names of William Till and John Finney, eſquires, their, and either of their heirs, executors and adminiſtrators: And that the Truſtees of the General Loan Office for the county of Kent ſhall enter

Truſtees to give bond, &c.

(b) For the names of theſe reſpective Truſtees ſee before in chap. 102. 2. ſect. 4.

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enter into bond, with two ſufficient ſureties, in the ſum of Three Thouſand Pounds, in the name of John Caton, eſq. Treaſurer of Kent county, and his ſucceſſors: And that the Truſtees of the General Loan Office for the county of Suſſex ſhall enter into bond, with two ſufficient ſureties, in the ſum of Two Thouſand Pounds, in the name of David Hall and Jacob Kollock, jun. eſquires, their heirs, executors or adminiſtrators, before they, or either of them receive the ſaid monies, or any part or parcel thereof, in truſt nevertheleſs for the public, that they will diſpoſe of, and apply, the ſaid money, and every part and parcel thereof, in ſuch manner as by this act they are enjoined and required, and not otherwiſe; which bonds ſhall be lodged in the hands of the reſpective perſons to whom the ſaid bonds are payable, in truſt as aforeſaid, or either of them.

Part of the ſaid money to be applied in ſinking Four Thouſand Pounds given to the King's uſe. &c.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That the ſaid Truſtees ſhall, and are hereby required and enjoined to exchange the ſum of Four Thouſand Pounds in the proportions above mentioned, part of the money that ſhall be paid to them by the ſaid Benjamin Chew and William Plumſtead, or either of them, for the like ſum of Four Thouſand Pounds of the bills of credit of this government, ſtruck, emitted and made current by an act of General Aſſembly of this government made in the thirty-third year of his late Majeſty's reign, intituled, *An act for ſtriking Four Thouſand Pounds in bills of credit, and giving the ſame to the King's uſe, and for the providing a fund for ſinking the ſame, (c)* and ſhall, in eaſe of the taxes impoſed on the inhabitants of this government by the ſaid act, burn, ſink and deſtroy, in the proportions aforeſaid, the ſaid ſum of Four Thouſand Pounds of the ſaid bills of credit, in the preſence of a Committee of Aſſembly of this government to be for that purpoſe appointed.

SECT. 8. *And* for the more ſpeedy collecting the bills of credit as aforeſaid, made current by the act, intituled, *An act for ſtriking Four Thouſand Pounds of bills*

(c) Chap. 169. a.

bills of credit, and giving the ſame to the King's uſe, and for providing a fund for ſinking the ſame, (c) the Truſtees of the Loan Offices of the ſeveral counties, immediately after receiving from the ſaid Benjamin Chew, or William Plumſtead, or either of them, the ſum or ſums hereby directed to be paid to them reſpectively, in order to their being ſunk as aforeſaid, ſhall publiſh and notify to the public, for four weeks ſucceſſively, in the Pennſylvania Gazette, That the act of Aſſembly aforeſaid, by which the ſaid bills were emitted, is repealed, and the ſaid bills no longer current by law; and that they are ready to exchange the ſame at their reſpective offices for other legal bills of credit. And the ſaid Truſtees ſhall have and receive for their trouble in exchanging and ſinking the ſaid bills one per cent. and no more.

SECT. 9. *And be it further enacted,* That the ſaid act of Aſſembly, intituled, *An act for ſtriking Four Thouſand Pounds in bills of credit, and giving the ſame to the King's uſe,* &c. (c) and every part thereof, ſhall be repealed, and is hereby declared to be null and void

and the ſurplus towards ſinking the Twelve Hundred Pounds ſtruck in the thirty ſecond year of his late Majeſty's reign.

SECT. 10. *And be it further enacted by the authority aforeſaid,* That the ſurplus of the ſaid money, that ſhall remain in the hands of the ſaid Truſtees, after ſinking the ſaid ſum of Four Thouſand Pounds of the bills of credit of this government aforeſaid, ſhall be by them diſpoſed of and applied towards ſinking the ſum of Twelve Hundred Pounds in bills of credit, which by an act, intituled, *An act for raiſing the ſum of Twelve Hundred Pounds, for the King's uſe, and providing a fund for ſinking the ſame,* (d) paſſed in the thirty-ſecond year of his late Majeſty's reign, was paid into the hands of John Finney, Vincent Lockerman and David Hall, to diſcharge ſeveral public ſervices therein expreſſed, in bills of credit then remaining in the reſpective Loan Offices of the ſaid government, for exchanging worn and defaced bills of credit, and by the ſaid act made current for four years.

SECT. 11. *And be it further enacted by the authority aforeſaid,* That ſo much of the ſaid act, intituled, *An act for raiſing the ſum of Twelve Hundred Pounds for*

(d) Chap. 161. a.

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the King's uſe, and providing a fund for ſinking the ſame (d) as makes the ſaid bills of credit current, and provides funds for ſinking the ſame by taxes or otherwiſe, be, and is hereby repealed, and declared null and void, [any thing therein contained to the contrary notwithſtanding] of which the ſame public notice ſhall be given as is herein before directed with reſpect to the other act herein before repealed.

Paſſed October 31, 1761.

CHAP. CLXXV. a.

1761. *An* ACT *for killing of ſquirrels in the counties of Kent and Suſſex.* Temporary and expired.

CHAP. CLXXVI. a.

1761. *An* ACT *for the better regulation of the King's roads within the counties of Kent and Suſſex. (a)*

Preamble. WHEREAS an act of Aſſembly of this government, made in the twenty-fifth year of his late Majeſty's reign, intituled, *An act for erecting public bridges and cauſeways, and laying out and maintaining highways, (b)* is found not to anſwer all the good purpoſes thereby intended.

SECTION 2. *BE it therefore enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the government of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives*

(a) See "An act for the better regulation of the roads in the county of Kent," chap. 99. c.—And "An act for the better regulation of the roads in the county of Suſſex." chap. 100. c. paſſed Feb. 9, 1796, for divers alterations of this act, with many additional proviſions.

(b) Chap. 131. a. 25 Geo. II.

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preſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That the following roads within the counties of Kent and Suſſex, being heretofore deem'd and taken to be King's roads, altho' no ſufficient proof appears that the ſame were laid out by lawful authority, (*to wit*) In Kent county, the roads beginning at a run near Duck-creek or Saliſbury town, that divides New-Caſtle from Kent county, and running from thence the ſeveral courſes of the ſaid road through Dover town, until it comes to where the ſaid road ſeparates and divides, about one mile to the ſouthward of the ſaid town of Dover, near to the place where Thomas Nixon now dwells; and from thence the roads known by the name of the Draw-bridge, or Lower and Upper King's roads, ſhall ſeverally continue their reſpective courſes until they interſect each other near to a branch called the Three Runs, and from thence on the ſeveral courſes of the ſaid road to the Three Runs. And in Suſſex county, the roads beginning at the Three Runs, and running from thence on the ſeveral courſes thereof until it comes to the place where John Clows, jun. now dwells, and running from thence on the ſeveral courſes thereof to the Court-Houſe in the town of Lewes, and ſo along the bank of Lewes Town creek to the Canary Kiln; and beginning at the ſaid Court-Houſe and running on the ſeveral courſes to a mill known by the name of Frame's Saw-mill, being at this time the utmoſt limits of the ſaid county of Suſſex, next to Maryland; thence running from the ſaid mill on the ſeveral courſes to the ſaid John Clows's, where the ſaid King's roads meet, as is herein deſcribed, ſhall from henceforth be deemed, taken and allowed, to be public or King's roads within the ſaid counties.

Roads leading from Saliſbury to Dover and from thence to Lewes, &c. to be deemed King's roads.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That the ſaid roads ſhall be of the ſame breadth as the other King's roads within this government are, or ought to be, according to the ſaid act, and ſhall be made, cleared, grubbed, maintained and repaired, in the ſame manner as in and by the ſaid act is directed and appointed for making, clearing,

To be of ſame breadth as other King's roads.

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ing, grubbing, maintaining and repairing the King's roads, laid out by virtue of the ſaid act.

Bridges, &c. to be maintained as uſual.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all cauſeways, or bridges, over creeks, waters, runs, ſwamps, or ſunken lands, through which the ſaid roads paſs, ſhall be made, built, erected, maintained and repaired, in the ſame manner as in and by the ſaid act is directed and appointed for the making, building, erecting, maintaining or repairing, cauſeways and bridges, in the King's roads or highways.

Overſeers to repair them.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That all and every the Overſeer and Overſeers of each and every hundred within the ſaid counties, who now are, or hereafter may be nominated and appointed, may and are hereby reſpectively impowered and required to proceed in the ſame manner, for the maintaining and repairing the ſaid roads, as any Overſeer or Overſeers might or could do by virtue of the ſaid act for maintaining and repairing the King's roads and highways, or any cauſeways or bridges in the ſame, within the ſaid counties.

Penalty on obſtructing the ſaid roads, and on Overſeers for neglect of duty.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall preſume to turn, alter, or any ways obſtruct, the aforeſaid roads, or any of them, by this act appointed to be the King's roads as aforeſaid, or if any perſon or perſons ſhall refuſe or neglect to perform ſuch ſervices and labours as any Overſeer or Overſeers, in the diſcharge of his or their duty in purſuance of this act, ſhall direct, or if any Overſeer or Overſeers ſhall refuſe or neglect the performance of his or their duty by this act required, all and every ſuch perſon or perſons, Overſeer or Overſeers, ſhall, reſpectively, for every ſuch offence, refuſal or neglect, forfeit the ſeveral ſums of money reſpectively forfeited for the like offences or neglects by virtue of the firſt mentioned act of Aſſembly, to be recovered, levied, paid and appropriated, as in the ſaid act in ſuch caſes reſpectively is directed and appointed.

SECT. 7. *Provided always, and be it further enacted by the authority aforeſaid*, That where application ſhall

be

be made to the Juſtices in their Court of Quarter Seſſions, to be held for the ſaid counties reſpectively, by any perſon or perſons, ſetting forth, that it is neceſſary, for the convenience and benefit of the public in general, that the ſaid King's roads, or any of them, ſhould at any time be altered from the place or places where they now paſs, the ſaid juſtices are hereby required and impowered to nominate and appoint five good and ſubſtantial freeholders, of the neighbourhood, to view and examine, whether ſuch road or roads, ſo to be altered, would be neceſſary: And if, upon viewing the premiſes, the ſaid freeholders, or a majority of them, ſhall be of opinion that ſuch road or roads might be altered for the public eaſe and advantage, Then they are hereby ordered to lay out and alter the ſame, and make a return to the ſucceeding Court of Quarter Seſſions to be held in the county where ſuch application ſhall be made, deſcribing in writing, under their hands, the ſaid roads ſo by them laid out and altered, with courſes and diſtances, as near as can be eſtimated; and if the ſaid return ſhall be accepted and approved of by the ſaid juſtices, they ſhall cauſe the ſame to be entered on record; which ſaid roads, when ſo laid out and altered, and the return made and approved of by the juſtices as aforeſaid, ſhall then be deemed, taken and allowed, to be the King's road, and ſhall be cleared, grubbed, maintained and repaired, in the ſame manner that the act of Aſſembly firſt mentioned directs and appoints in the like caſes. And whenever it ſhall be found neceſſary and convenient, by ſuch five freeholders, or any three of them, that ſuch road ſhall run or go through the improved lands of any perſon or perſons, then, and in ſuch caſe, ſuch five freeholders, or any three of them, ſhall, together with the return of the view of ſuch roads, make return to the Courts of Quarter Seſſions in each county reſpectively, upon oath or affirmation, to be taken before any Juſtice of the Peace of the county where ſuch lands lie, of the damage that may be ſuſtained by ſuch perſon or perſons as ſhall be the owner or owners of ſuch improved lands by reaſon or means of laying out ſuch road through the ſame; and the

How the ſaid roads may be altered, &c.

ſaid

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ſaid freeholders, or any three of them, ſo nominated and appointed by the juſtices as aforeſaid, ſhall receive Five Shillings per day for every day they ſhall attend in viewing and laying out the ſame.

Damages and coſts to be paid by the county.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That the damages that may be ſuſtained by ſuch perſon or perſons as ſhall be owner or owners of ſuch improved lands as aforeſaid, together with the allowance to ſuch freeholders, and the other charges that may lawfully accrue thereon, ſhall be raiſed and paid by the county where ſuch lands lie, in the ſame manner that other county levies are raiſed and paid.

Former act repealed.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That an act of Aſſembly of this government, made in the thirty-third year of his late Majeſty's reign, intituled, *An act for the better regulation of the King's roads within the county of Kent*, (c) ſhall be, and is hereby repealed, and made null and void, any thing therein contained to the contrary in anywiſe notwithſtanding.

Paſſed October 31, 1761.

CHAP. CLXXVII. a.

1761.

A Supplement to the act of Aſſembly of this government, intituled, An act for the better regulation of the Supreme Court within this government. (a)

Preamble.

WHEREAS the days for holding the Supreme Court within the reſpective counties of this government, as by the ſaid act appointed, have been found (by experience) to be improper times for holding of the ſaid court, particularly in the counties of Kent and Suſſex, where the days interfere with the days by law appointed for holding of courts of Quarter

(c) Chap. 166. a.

(a) Chap. 167. a,

ter Seſſions, Common Pleas, and inferior Courts of Equity. For remedying whereof for the future,

SECTION 2. *BE it enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor, and Commander in Chief of the government of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That, from and after the publication of this act, the Supreme Court of this government ſhall be held and kept twice in every year in each county of this government, *That is to ſay,* At New-Caſtle, for the county of New-Caſtle, on the fifth day of April, and the fifth day of September; at Dover, for the county of Kent, on the fifteenth day of April, and the fifteenth day of September; and at Lewes, for the county of Suſſex, on the Friday before the Courts of Quarter Seſſions, and Common Pleas, in the months of May and November: But if any or either of the days herein appointed for holding the Supreme Court at New-Caſtle, or at Dover, aforeſaid, ſhould happen to be on the Lord's Day (commonly called Sunday) then the ſaid Supreme Court ſhall be held on the next day following the aforeſaid appointed days. *(b)*

The days for holding the Supreme Court in the ſeveral counties.

SECT 3. *And be it further enacted by the authority aforeſaid,* That the aforementioned act of Aſſembly, intituled, *An act for the better regulation of the Supreme Court within this government, (a)* ſo far as the ſame relates to the days in the ſaid act appointed for holding the Supreme Court in the reſpective towns of New-Caſtle, Dover, and Lewes, and every clauſe concerning the ſame, be and is hereby repealed, annulled and made void.

How far the former law is repealed.

SECT. 4. *Provided always,* That no plea, cauſe or action, now depending in the Supreme Courts of this

No actions to be diſcontinued by this act, &c.

(b) For ſubſequent alterations of the days for holding this court in the ſaid reſpective counties, ſee chap. 5. b. paſſed Feb. 22, 1777.—chap. 19. c. paſſed June 14. 1793,—and chap. 61. c. paſſed Feb. 7, 1794.

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this government, ſhall be diſcontinued, but that the ſame may be heard, tried and determined before the judges of the court for the time being, on the days, and at the places aforementioned, in as full and ample a manner as they could have been tried, heard and determined, at the times and places in the aforeſaid act of Aſſembly appointed.

Paſſed October 31, 1761.

CHAP. CLXXVIII. a.

1762. *An* ACT *to authorize and impower Benjamin Chew, eſq. of the City of Philadelphia, and in caſe of his death, William Plumſtead, eſq. of the City of Philadelphia, to draw for the ſum of Three Thouſand Seven Hundred and Forty-five Pounds, Seventeen Shillings and Ten-pence, ſterling, now in the hands of the Agent of this government reſiding in London, and to direct the appropriation of the ſaid money.*

Preamble. WHEREAS by an act of General Aſſembly of this government, paſſed in the thirty third year of his late Majeſty, intituled, *An act for appointing an Agent, reſiding in England, for this government*, (a) David Barclay, junior, of the City of London, merchant, was nominated, conſtituted and appointed Agent for this government, and impowered to receive, from any perſon or perſons who ſhould have the payment thereof in England, ſuch proportionable ſhare or part of the money given, or to be given, by the Parliament, as a compenſation for ſuch expences as the reſpective colonies in North America ſhould be put to, in levying, cloathing and paying the forces raiſed by them, as his ſaid Majeſty in his wiſdom ſhould think the ſaid colonies, according to the active vigour and ſtrenuous efforts of each ſhould juſtly appear to merit. And that

(a) Chap. 168. a.—and ſee chap. 174. a.

that all ſuch ſum or ſums of money as the ſaid David Barclay ſhould receive, by virtue of the ſaid act, ſhould remain in his hands until the ſame ſhould be thereafter diſpoſed of by an act of the General Aſſembly of this government, and then ſhould be paid by him to ſuch perſon or perſons, and to ſuch purpoſes, as ſhould be thereby named and directed.

SECT. 2. *And whereas* it appears, by advice from David Barclay, junior, Agent for this government, that he hath received, as the diſtributive ſhare or proportion of the money allotted to this government, in virtue of the Parliamentary grants for the years One Thouſand Seven Hundred and Fifty-nine, and One Thouſand Seven Hundred and Sixty, the net ſum of Three Thouſand Seven Hundred and Forty-five Pounds, Seventeen Shillings and Ten-pence, ſterling, after deducting the fees and charges by him paid to the treaſury and exchequer.

SECT. 3. *Be it therefore enacted by the honorable James Hamilton, eſq. Lieutenant Governor, and Commander in Chief of the government of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietaries of the ſaid government and province, and by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid government, in General Aſſembly met, and by the authority of the ſame,* That the ſaid David Barclay, junior, ſhall have and retain one half per cent. for his care and trouble in receiving, and one half per cent. for paying, the ſaid ſum of Three Thouſand Seven Hundred and Forty-five Pounds, Seventeen Shillings and Ten-pence, ſterling, and no more: And the ſaid Benjamin Chew, and, in caſe of his death, William Plumſtead, is hereby authorized, impowered and directed, within the ſpace of ſix weeks after the paſſing of this act, to draw bills of exchange in his own name, but for the uſes and purpoſes herein after directed, on the ſaid David Barclay, junior, payable at thirty days ſight, for the whole reſidue and remainder of the ſaid ſum of money in his hands, and ſhall ſell and diſpoſe of the ſaid bills of exchange to the beſt ad-

Bills of Exchange to be drawn on the Agent for Three Thouſand Seven Hundred and Forty-five Pounds, Seventeen Shillings and Ten-pence, ſterling.

CHAP. CLXXVIII. 1762.

vantage, and for the moſt that can be had or procured for the ſame. And the ſaid Benjamin Chew, and, in caſe of his death, William Plumſtead, ſhall, within the further ſpace of ſix weeks after drawing the ſaid bills of exchange, pay and deliver over all the money which he ſhall receive for the ſaid bills of exchange (deducting thereout one half per cent. for receiving, and one half per cent. for paying the ſame, which is hereby allowed him for his care and trouble, and no more) to the Truſtees of the General Loan Offices of this government, in the ſeveral ſhares and proportions following, *That is to ſay*, One half part, or five tenths, of the ſaid money to the Truſtees of the General Loan Office of the county of New-Caſtle; three tenths to the Truſtees of the General Loan Office for the county of Kent; and the remaining two tenths to the Truſtees of the General Loan Office for the county of Suſſex; *(b)* and take their reſpective receipts for the ſame, which ſhall be a full diſcharge to the ſaid Benjamin Chew (and in caſe of his death, William Plumſtead) for the ſame.

The money received therefore to be paid to the Truſtees of the Loan Offices in proportion, &c.

Truſtees to give bond, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That the Truſtees of the General Loan Office for the county of New-Caſtle ſhall enter into bond, with two ſufficient ſureties, in the ſum of Six Thouſand Pounds, in the names of William Till and John Finney, eſquires, their, or either of their heirs, executors and adminiſtrators: And that the Truſtees of the General Loan Office for the county of Kent ſhall enter into bond, with two ſureties, in the ſum of Three Thouſand Five Hundred Pounds, in the name of John Caton, eſq. Treaſurer of Kent county, and his ſucceſſors: And that the Truſtees of the General Loan Office for the county of Suſſex ſhall enter into bond, with two ſufficient ſureties, in the ſum of Two Thouſand Four Hundred Pounds, in the names of David Hall and Jacob Kollock, junior, their, or either of their heirs, executors or adminiſtrators, before they, or either of them, receive the ſaid monies, or any part or parcel thereof, in truſt

nevertheleſs

(b) For the names of thoſe reſpective Truſtees ſee before in chap. 162, a, ſect. 4.

nevertheleſs for the public, that they will diſpoſe of, and apply the ſaid money, and every part and parcel thereof, in ſuch manner as by the ſaid act they are enjoined and required, and not otherwiſe; which bonds ſhall be lodged in the hands of the reſpective perſons to whom the ſaid bonds are payable, in truſt as aforeſaid, or either of them.

Appropriation of the ſaid money.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the whole ſum of money, which ſhall be paid and delivered over into the hands of the ſaid Truſtees by the ſaid Benjamin Chew, and in caſe of his death, William Plumſtead, ſhall be by them diſpoſed of and applied towards the ſinking the ſum of Seven Thouſand Pounds in bills of credit, which are made current by an act, intituled, *An act for re-printing, exchanging and re-emitting, Twenty Thouſand Pounds of the bills of credit of this government to be let out on loan; and for ſtriking the further ſum of Seven Thouſand Pounds in ſuch bills, and giving the ſame to his Majeſty's uſe, and for providing a fund for ſinking the ſame.* (c) And the ſaid Truſtees ſhall, and are hereby required, and enjoined, to exchange the ſaid ſum that ſhall be paid into their hands by the ſaid Benjamin Chew, or in caſe of his death, William Plumſtead, for the like ſum of money of the bills of credit made current by the act of Aſſembly aforeſaid; and ſhall, in eaſe of the taxes impoſed on the inhabitants of this government by the ſaid act, burn, ſink and deſtroy, in the proportions aforeſaid, the ſaid bills of credit, that the ſaid Truſtees ſhall ſo receive in exchange, in the preſence of a Committee of Aſſembly of this government, to be for that purpoſe appointed.

And, to the end that the reſidue and remaining part of the aforeſaid ſum of Seven Thouſand Pounds may be ſunk and deſtroyed in one year,

An additional tax to be laid for one year.

SECT. 6. *Be it enacted by the authority aforeſaid*, That the Juſtices, Grand Jurymen and Aſſeſſors, of each reſpective county, at the uſual time of holding their Levy Courts, ſhall, over and above the tax laid for diſcharging the county rates and levies upon the freeholders

(c) Chap. 162. 3.

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freeholders and inhabitants, lay an additional tax of Three-pence in the Pound on the eſtates of all perſons that ſhall be returned as taxables by the Aſſeſſors in each reſpective county, to be paid by them according to the ſeveral ſums at which they are aſſeſſed or rated in the ſaid Aſſeſſors liſts; which ſaid tax ſhall be levied and paid to the Collectors of each reſpective county in the ſame manner as other county rates and levies are ordered and directed to be paid by an act of Aſſembly of this government, paſſed in the ſixteenth year of his late Majeſty, intituled, *An act for raiſing county rates and levies.*

Commencement of ſaid tax,

SECT. 7. *Provided always, and it is hereby enacted by the authority aforeſaid,* That the aforeſaid additional tax of Three-pence in the Pound ſhall not commence or take place until the firſt day of November, in the year of our Lord One Thouſand Seven Hundred and Sixty-three, and ſhall be continued from that time until the firſt day of November, One Thouſand Seven Hundred and Sixty-four, and no longer.

Money levied by Collectors to be paid to Truſtees in bills of credit, &c.

SECT. 8. *And be it further enacted by the authority aforeſaid,* That all the ſum or ſums of money levied by the Collectors of the reſpective counties, by virtue of this act, ſhall be paid by the ſaid Collectors to the Truſtees of the General Loan Offices of the ſaid counties, in bills of credit made current by the aforeſaid act of Aſſembly, intituled, *An act for reprinting, exchanging,* &c. which ſaid bills ſhall be produced by the ſaid Truſtees to the Committee of Aſſembly for that purpoſe to be appointed, and in their preſence to be burnt and deſtroyed.

SECT. 9. *And be it further enacted,* That the ſaid Truſtees ſhall give to the ſaid Collectors their receipts for all ſuch ſums as ſhall be ſo as aforeſaid paid to them; which receipts, produced by the ſaid Collectors to the next Levy Court, ſhall be allowed of, and adjudged ſufficient to diſcharge the ſaid Collectors from the ſums therein ſpecified.

Allowance to Collectors;

SECT. 10. *And be it further enacted by the authority aforeſaid,* That the Collectors ſhall have and retain in their hands, for all ſums of money by them reſpectively collected as aforeſaid, the ſum of Five Pounds

per

per cent. and no more. And the ſaid Collectors, before they enter on the execution of their office, ſhall enter into bonds, to the Truſtees of each county reſpectively, with good ſurety, in ſuch ſum as they ſhall direct, for the faithful performance of the duties required of them by this act: And that the ſaid Truſtees ſhall have and retain in their hands, for receiving, ſinking and deſtroying, the ſaid bills, one per cent. for their trouble, and no more.

who are to give bond, &c.

SECT. 11. *And be it enacted by the authority aforeſaid*, That if the ſaid tax of Three-pence in the Pound for one year, to be levied by virtue of this act, ſhall raiſe more than may be ſufficient to ſink and deſtroy the reſidue and remaining part of the ſaid Seven Thouſand Pounds as aforeſaid (incidental charges included) the overplus ſhall be diſpoſed of by the joint conſent of the Governor and Commander in Chief of this government for the time being and the Aſſembly, and not otherwiſe.

If more than will ſink the Seven Thouſand Pounds be raiſed, in what manner to be diſpoſed of.

SECT. 12. *And be it further enacted by the authority aforeſaid*, That ſo much of the ſaid act, intituled, *An act for re-printing, exchanging and re-emitting Twenty Thouſand Pounds of the bills of credit of this government, to be let out on loan, and for ſtriking the further ſum of Seven Thouſand Pounds in ſuch bills, and giving the ſame to his Majeſty's uſe, and for providing a fund for ſinking the ſame*, (c) as grants the ſaid ſum of Seven Thouſand Pounds to his Majeſty's uſe, and provides a fund for ſinking the ſame, and no more, be, and is hereby repealed, and declared null and void, any thing therein contained to the contrary in anywiſe notwithſtanding.

Repeal of former act.

Paſſed November 2, 1762.

CHAP. CLXXIX. a.

An ACT *for repealing an act of Aſſembly of this government hereafter mentioned, and for reviving an act, intituled, "An act for the relief of the poor within the county of Kent."* Repealed: See the note at chap. 88, a. 15 Geo. II. CHAP.

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(c) See before chap. 162, a. from ſect. 25, to ſect. 34, inclusive.

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CHAP. CLXXX. a.

An ACT *for the better regulation of the roads in New-Caſtle county.*

Preamble.

WHEREAS an act made in the twenty-fifth year of his late Majeſty's reign, intituled, "*An act for erecting public bridges, cauſeways, and laying out and maintaining highways (a)* has not been found agreeable to the inhabitants of New-Caſtle county, nor to anſwer all the good purpoſes intended by the ſaid act. *And whereas*, ſtraight roads are a credit and ornament to a country, as well as an eaſe and advantage to travellers;

SECTION 2. *BE it therefore enacted by the honorable James Hamilton, eſq. with his Majeſty's royal approbation, Lieutenant Governor, and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietaries of the counties and province aforeſaid, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That a public road or highway ſhall be laid out, leading through the ſaid county, Beginning at the road leading from Cheſter at the line between the counties of Cheſter and New-Caſtle, and from thence over Naaman's Creek to Brandywine Creek; and from thence two public roads or highways ſhall be laid out, the one over Chriſtiana ferry, near the houſe of Thomas Jaquet, and from thence to New-Caſtle; and from thence to the inn called the Red-Lion, where John Rankin now dwells; and from the ſaid Red-Lion to the village called St. George's; and from thence to Appoquinimink bridge; and from thence over Blackbird Bridge to the town of Saliſbury, commonly called Duck-Creek: And the other from Brandywine aforeſaid to Wilmington; and from thence to Newport; and from thence to Chriſtiana Bridge;

Highway to be laid out through Brandywine hundred.

Two highways through the county.

(a) Chap. 131. a. 25 Geo. II.

Bridge; and from thence to the Red Lion aforeſaid; and from thence to the inn now kept by Walter Crow; and from thence to the inn now kept by Joſeph Jaquet; and from thence to Blackbird bridge aforeſaid: And alſo a public road or highway ſhall be laid out from New-Caſtle to Chriſtiana Bridge aforeſaid.

Breadth of the ſaid highways.

SECT. 3. *And be it enacted by the authority aforeſaid*, That the ſaid roads ſhall be of the breadth of ſixty feet; forty feet whereof ſhall be grubbed and cleared: And after the ſaid roads ſhall be laid out as aforeſaid, the perſons herein after mentioned for laying out the ſame, or any three of them, ſhall make a return thereof into the Office of the Clerk of the Peace for the ſaid county, with a fair map or platt of the ſame, and the ſeveral courſes and diſtances of the ſaid roads; which ſhall be entered on record without delay in the ſaid office, and from thenceforth they ſhall be deemed, taken and allowed to be King's roads. *(b)*

Damages to improved lands how to be aſcertained.

And if any of the ſaid roads or highways ſhall be laid out through the improved lands of any perſon or perſons, then and in ſuch caſe the perſons herein after named and appointed to lay out the ſame, or any three of them, ſhall, together with their ſaid return, ſet down, upon oath or affirmation, truly and faithfully, the damages ſuſtained by the owner or owners of ſuch improved lands by reaſon or means of the ſaid roads or highways being laid out through the ſame; all which damages, together with the expence and charge of laying out, returning and recording the roads aforeſaid, ſhall be paid and ſatisfied by orders, drawn by the Juſtices of the Quarter Seſſions, on the Treaſurer of the ſaid county, who is hereby required to pay the ſame, and to bring an account thereof into the next ſucceeding court to be held for raiſing county levies,

Damages and coſts to be paid by the county.

(b) See a ſupplementary act hereto, chap. 184. a. for a review of ſuch roads and their eſtabliſhment, with additional proviſions therein.—A further ſupplement, chap. 195. a. altering that part of the then King's road from Whiteclay-creek bridge to Chriſtiana bridge—and another ſupplement, chap. 211. a. directing the payment of Six Pounds annually, to the owners of the mill-dam at the village of St. Georges, the better to enable them to keep it in good order as a road—That the water wheels of mills near the roads be concealed by ſheds, &c.—That Overſeers may open drains through lands adjoining—and that gravel, ſand or ſtones may be taken therefrom.

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levies, in order that the ſame may be aſſeſſed and levied on the inhabitants of the county aforeſaid.

Names of the Commiſſioners.

SECT. 4. *And be it further enacted by the authority aforeſaid,* That the ſaid King's roads or highways ſhall be laid out by the perſons following, *That is to ſay,* David Finney John Evans and William Williams, eſquires, and David Ferriſs and Empſon Bird, gentlemen, or any three of them, who are hereby authorized, impowered and required to lay out the ſame accordingly, in ſuch manner as they ſhall judge to be moſt advantageous to the public, and leaſt injurious to the owners of the adjoining lands, without favour to any perſon or perſons whatſoever; and to employ ſuch ſurveyor or ſurveyors, labourers and workmen, as they ſhall think neceſſary in platting or laying out the ſaid roads or highways. *And* if any perſon or perſons hereby appointed for laying out the ſaid roads ſhall refuſe to act or happen to die, before the roads ſhall be completely laid out and returned as aforeſaid, then, and in every ſuch caſe, the Repreſentatives of the freemen of the county aforeſaid, or a majority of them, ſhall nominate and appoint by ſome writing ſigned by them, ſome other ſuitable perſon or perſons in the room of ſuch as ſhall refuſe or die as aforeſaid; which ſaid perſon or perſons, ſo to be nominated and appointed, are hereby impowered and required to act in the premiſes as fully as any perſon or perſons herein mentioned may or can do.

Vacancies how to be ſupplied.

Allowance to Commiſſioners, Surveyors, &c,

SECT. 5. *And be it further enacted by the authority aforeſaid,* That each of the perſons hereby appointed, or hereafter to be nominated and appointed as aforeſaid, for laying out and returning the ſaid roads and highways, or any part thereof, ſhall receive for their trouble in attending on the ſaid buſineſs Seven Shillings and Six-pence per day, each of the ſurveyors Ten Shillings per day, and the chain-carriers and markmen Three Shillings and Six-pence per day each; which ſaid ſums ſhall be paid to them reſpectively by the Treaſurer of the ſaid county, by orders drawn by the juſtices as aforeſaid, who are hereby required to draw the ſame.

The ſaid roads not to be altered.

SECT. 6. *And be it further enacted by the authority aforeſaid,* That the Juſtices of the Peace, in their Court

Court of Quarter Seſſions for the county aforeſaid, ſhall not by virtue of any act of General Aſſembly of this government now in force, have any power or authority, in any manner whatſoever, to change or alter ſuch roads or highways, to be laid out and returned as aforeſaid, or any part of the ſame; *But* that all ſuch acts, ſo far as they or any of them give, or might be conſtrued to give, ſuch juſtices power to change or alter ſuch roads or highways, or any part thereof, or to appoint and order a new road or roads to be laid out and made, inſtead of the King's roads or highways herein before directed to be laid out, be and are hereby repealed, annulled and made void, any thing therein contained to the contrary notwithſtanding.

Private roads to be laid out at the expence of the petitioners.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That all private roads, leading from the plantation or dwelling-place of any perſon or perſons to or from the King's highways or common highways, within the ſaid county of New-Caſtle, ſhall be laid out at the expence of the petitioners for the ſame; and that all common highways or public roads hereafter to be applied for to the Court of Quarter Seſſions for the county aforeſaid, and laid out in manner as by the act of Aſſembly aforeſaid is directed, ſhall be laid out at the expence of the ſaid county; and the coſts, damages and charges, accruing from the obtaining ſaid roads, ſhall be raiſed as other county rates and levies are, and paid by orders, drawn by the juſtices of the ſaid court, upon the Treaſurer: And the freeholders, appointed to view and examine whether roads petitioned for are neceſſary and convenient, or any three of them, ſhall, together with their return thereof, certify to the juſtices of the court aforeſaid, whether ſuch road ſo laid out is a private road, or a common highway: And the ſaid juſtices are to determine accordingly.

Common highways to be laid out at the expence of the county.

All roads to be repaired at the charge of the hundred through which they run, &c.

SECT. 8. *And be it enacted by the authority aforeſaid*, That the Overſeers of the highways within each of the hundreds of the ſaid county, are hereby impowered and required to employ labourers and workmen to repair and amend all King's highways, common highways, roads, bridges and cauſeways, (except bridges lying over creeks and deep waters as are e-

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rected, or to be erected and ſupported at the common expence of the ſaid county) *(c)* within the limits of the ſaid hundred; which ſaid labourers and workmen ſhall be paid by orders drawn by any of the ſaid Overſeers, and one Juſtice of the Peace of the ſaid county, on the Collector of the taxes for ſaid hundred, and the account of the charges thereof ſhall be brought in at the ſame time and place that the Overſeers of the Poor of the ſaid hundred reſpectively meet to lay the poor rates, and then and there be aſſeſſed and levied by a tax on the inhabitants of the ſaid hundreds, by any two Juſtices of the Peace, together with the ſaid Overſeers. *(d)*

Allowance to Overſeers of the roads.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That every Overſeer or Surveyor of the highways within the ſaid county ſhall, for every day they ſhall neceſſarily attend in opening, repairing and amending the ſaid roads and highways, be allowed the ſum of Five Shillings, to be paid by the Treaſurer of the ſaid county; the ſaid Overſeers accounts being firſt taxed by any one Juſtice of the Peace of the hundred where ſuch Overſeer reſides, or otherwiſe by the Judges of the Levy Court.

Penalty on Overſeers for neglect of duty.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That if any Overſeer or Overſeers, of the county of New-Caſtle aforeſaid, ſhall neglect or refuſe to do his or their duty by this act required, or ſhall permit and ſuffer any of the ſaid roads, bridges and cauſeways, within their reſpective hundreds, to remain unpaſſable, incumbered or unrepaired, for the ſpace of fifteen days together, every ſuch Overſeer or Overſeers, for every ſuch neglect, being duly convicted thereof in any Court of Quarter Seſſions for the ſaid county, ſhall be fined the ſum of Five Pounds, to be paid to the Collector of the ſaid hundred towards defraying the charge of repairing the roads within the ſame.

SECT. 11. *And be it further enacted by the authority aforeſaid*,

(c) For this ſee chap. 131. a. ſect. 6. 25 Geo. II.

(d) See chap. 187. a. ſect. 11. paſſed November 1, 1766.—and ſee alſo chap. 249. b. ſect. 13. where it is provided that Conſtables ſhall perform the duties heretofore aſſigned to Overſeers of the Poor, paſſed Feb. 4. 1792.

aforeſaid, That if any perſon or perſons ſhall preſume to obſtruct any of the aforeſaid King's highways, to be laid out by the perſons herein named, or to turn the ſame, or ſhall commit any nuſance therein, and do not remove the ſame forthwith, ſuch perſon or perſons ſo offending, and being duly convicted thereof in manner aforeſaid, ſhall be fined in the ſum of Five Pounds, to be applied for the removing ſuch nuſances, and repairing and clearing other roads within the hundred, where the offence ſhall be committed.

Penalty on obſtructing, &c. the ſaid highways.

SECT. 12. *And be it enacted by the authority aforeſaid*, That an act of Aſſembly of this government, intituled, "*An act for repairing and amending the highways, roads, cauſeways and bridges within the hundred of New-Caſtle*," *(e)* ſhall be and is hereby repealed, made null and void. *Provided always*, That all and every other part and clauſe in the act of Aſſembly of this government, intituled, "*An act for erecting public bridges, cauſeways, and laying out and maintaining highways*," *(f)* ſhall continue in full force, ſave only ſuch parts as are hereby altered and amended.

Act for repairing roads in New-Caſtle hundred repealed.

Paſſed November 2, 1762.

CHAP. CLXXXI. a.

A Supplement to the act of Aſſembly of this government, intituled, "An act for the better regulation of the Supreme Court within this government, and for aiding the diſcontinuance of the proceſs therein."—Repealed in chap. 193. 8. 1764.

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(e) Chap. 111. a. 20 Geo. II.

(f) Chap. 131. a. 25 Geo. II.

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CHAP. CLXXXII. a.

An ACT *for ſuppreſſing idleneſs, drunkenneſs, and other debaucheries, within this government.*—Expired.

CHAP. CLXXXIII. a.

1764. *An* ACT *for the more eaſy and ſpeedy recovery of legacies.*

Preamble. WHEREAS the proceedings in the Courts of Chancery, within this government, for the recovering of legacies are tedious and expenſive,

SECTION 2. *BE it enacted by the honorable John Penn, eſq. (a) with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the government of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietaries of the ſaid government and province, and by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid government in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act, it ſhall and may be lawful for any perſon or perſons, to whom any legacy, or bequeſt of any ſum or ſums of money, or other goods or chattels, have been, or may be, made, by the laſt will and teſtament of any other perſon or perſons legally made, to commence, ſue and proſecute, an action of debt, detinue or account render, as the caſe may require, for ſuch legacy after it becomes due, in any of the Courts of Common Pleas within this government: And if it ſhall appear that the legacy or legacies is or are due, and there be ſufficient aſſets in the hands of the executors, or adminiſtrators, with teſtaments annexed, to diſcharge the juſt debts of the teſtator, and the legacy or legacies

Legatees may ſue in the Common Pleas for their legacies.

(a) John Penn, eſq. began his government in November 1763, and continued until 1771.

cies bequeathed, the plaintiff or plaintiffs ſhall recover, with coſts of ſuit, any law, uſage or cuſtom, to the contrary notwithſtanding.

If not aſſets enough, abatement to be made.

SECT. 3. *Provided always*, That where it ſhall ſo happen that there are aſſets in the hands of any executors, or adminiſtrators, with teſtaments annexed, to diſcharge all the debts of the teſtator, with an overplus not ſufficient to diſcharge all the legacies which may be given, then an abatement ſhall be made in proportion to the legacies ſo given, unleſs it ſhall otherwiſe be provided by the will. And where any legatee or legatees are or may be under age at the time when ſuch legacy or legacies ſhall become due, in ſuch caſe ſuch legatee or legatees ſhall and may maintain an action for their reſpective legacies by guardian, or next friends, as fully and effectually, as by law they may do in any other actions whatſoever.

Infant legatee may ſue by guardian, &c.

Upon plea of want of aſſets, Auditors ſhall be appointed.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That the reſpective courts where the ſaid actions ſhall be commenced, upon the plea of the want of aſſets to pay all the debts and legacies, ſhall appoint Auditors to examine the accounts of the executors and adminiſtrators, with teſtaments annexed; who, after full hearing of the parties, at ſuch times and places as by them the ſaid Auditors ſhall be appointed, with notice to the parties, ſhall report how the accounts of the executors or adminiſtrators do ſtand, what aſſets will remain after payment of all the debts, and what part of the remainder is the proportion that ought to go towards paying of the plaintiffs legacies, having regard to all ſuch ſettlements as have been, or ſhall hereafter be made, before any court, or proper officer or officers, that may have juriſdiction and power to ſettle the ſame; for which proportion only, unleſs it be otherwiſe provided by the will, the court ſhall then award execution upon the judgment to be had in the ſaid ſuit; which judgment ſhall remain a ſecurity for the payment of the remainder of the ſaid legacies and coſts, when ſufficient aſſets for the payment thereof come to the executors or adminiſtrators hands: And where any exception ſhall be taken by either of the parties to the report

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report of the Auditors, it ſhall and may be lawful for the court in which the action ſhall be depending, on hearing of the parties, to correct and amend any miſtakes or errors which may happen in the accounts ſo to be reported.

Court may award coſts, or no coſts, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the juſtices of the courts aforeſaid reſpectively, upon conſideration of the report of the Auditors aforeſaid, ſhall, according to juſtice and equity, either award no coſts or coſts out of the teſtators eſtate; or in caſe the executors or adminiſtrators have been faulty in delaying to pay the legacy demanded, or a proportional part thereof, without ſufficient excuſe, then out of the proper eſtate of the executor or executors, adminiſtrator or adminiſtrators; any thing herein contained to the contrary notwithſtanding.

No ſuit to be maintained until demand made and bond given to refund, &c.

SECT. 6. *Provided always*, That no ſuch ſuit ſhall be maintained for any ſuch legacy until reaſonable demand made of the executor or executors, or adminiſtrators, with teſtaments annexed, who ought to pay the ſame, and an offer made of two ſufficient ſureties to the ſaid executor or executors, adminiſtrator or adminiſtrators aforeſaid, who, if they think proper to accept thereof, ſhall become bound to them the ſaid executor or executors, adminiſtrator or adminiſtrators aforeſaid, in double the ſum of the legacy given, with condition under written, that if any part, or the whole thereof, ſhall at any time after appear to be wanting to diſcharge any debt or debts, legacy or legacies, which the ſaid executor or executors, adminiſtrator or adminiſtrators, ſhall not have other aſſets to pay, that then the ſaid legatee will return his ſaid legacy, or ſuch part thereof as ſhall be neceſſary for the payment of the ſaid debts, or the payment of a proportional part of the ſaid legacies. And if the ſaid executors or adminiſtrators ſhall not think proper to accept of ſuch bond, then the ſaid legatees ſhall file the ſame with the Clerk of the Court before obtaining any proceſs againſt the executor or executors, adminiſtrator or adminiſtrators; otherwiſe, and in default thereof, the proceſs iſſued ſhall abate.

SECT. 7. *Provided alſo*, That where there are or may

may be ſeveral legatees, and a return of part of the ſaid legacy ſued for appears neceſſary, in ſuch caſe, each legatee ſhall only be compelled to return a proportionable part of his legacy ſo as to make up the whole ſum wanting.

Each legatee to return proportionably.

SECT. 8. *Provided alſo*, That where no time, in and by any laſt will and teſtament, is limited for the payment of any ſuch legacies, that then and in ſuch caſe the ſaid executors or adminiſtrators ſhall have the ſpace of one year to diſcharge the ſame.

Where no time limited, executors, &c. to have a year to pay.

Paſſed March 31, 1764.

CHAP. CLXXXIV. a.

A Supplementary ACT *for the amendment of an act of General Aſſembly of this government, intituled,* An act for the better regulation of the roads in New-Caſtle county.

Preamble.

WHEREAS the proceedings of a majority of the Commiſſioners, appointed by an act of Aſſembly of this government, intituled, *An act for the better regulation of the roads in New-Caſtle county,* (a) in laying out the two King's roads therein particularly mentioned, and returned into the Office of Clerk of the Peace at New-Caſtle, have occaſioned ſome diſcontent and diſſatisfaction to divers of the inhabitants of the ſaid county; For remedying whereof,

SECTION 2. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That John Stapler and Thomas Tobin, eſquires, David Stewart, George Monro, and John M'Kinly, gentlemen, or any three of them, are hereby

Names of the Commiſſioners.

(a) Chap. 180. a. ante. See after in chap. 195. a. and chap. 211. a.

CHAP. CLXXXIV. 1764.

by authoriſed, impowered and required, to review the King's roads aforeſaid, and lay out the ſame through the county of New-Caſtle, touching at the ſeveral places mentioned and ſet down in the ſaid act, in ſuch manner as they ſhall judge to be moſt advantageous to the public, and leaſt injurious to the owners of the adjoining lands, without favour or reſpect to any perſon or perſons whatſoever, and to employ ſuch ſurveyor or ſurveyors, labourers and workmen, as they ſhall think neceſſary in platting and laying out the ſame: *And* that the perſons herein named, or any three of them, ſhall make a return thereof to the Juſtices of the next Supreme Court to be held at New-Caſtle, for the county of New-Caſtle aforeſaid, deſcribing the ſaid roads, in writing, under their hands, with courſes and diſtances, with a fair map or platt of the ſame.

Return to be made to the Juſtices of the Supreme Court.

The Clerk of the Peace to deliver the former return to the Juſtices of the Supreme Court.

The juſtices to eſtabliſh one of the returns, or part of either, &c.

The roads eſtabliſhed to be King's roads.

Damages thro' improved lands, how to be aſcertained.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the map of the aforeſaid roads, and the return thereof made, by three of the perſons named in the ſaid law, into the Office of the Clerk of the Peace for the ſaid county, ſhall, by the ſaid Clerk, be delivered to the Juſtices of the Supreme Court aforeſaid, at the time aforeſaid; *And* that the ſame juſtices ſhall and may then and there take both the aforeſaid returns into their conſideration, and eſtabliſh, ratify and confirm either of them, or ſuch parts of both of them, as will make a complete road or roads through the ſaid county, in ſuch manner and form as to them ſhall ſeem beſt, and ſhall order the ſame to be entered upon the records of the ſame court without delay, deſcribing by courſe and diſtance the roads ſo eſtabliſhed and confirmed; and ſhall cauſe the maps and returns aforeſaid, or one of them, to be altered agreeable to the opinion and judgment of the ſame court, and filed with the Clerk thereof: *And* that the ſame roads, ſo eſtabliſhed and recorded, ſhall, from thenceforth, be deemed, taken and allowed to be King's roads, any thing in the aforeſaid act contained, or any other law, uſage or cuſtom, to the contrary in anywiſe notwithſtanding. *And* if any of the ſaid roads or highways, ſo eſtabliſhed, confirmed and recorded, ſhall be laid out or paſs through the improved lands

of

of any perſon or perſons, then, and in ſuch caſe, the juſtices aforeſaid ſhall make an order to direct the perſons herein before named, or hereafter to be named and appointed, to review and lay out the roads aforeſaid, and they, or any three of them, are hereby authoriſed, impowered and required, to ſet down in writing, under their hands, upon their oath or affirmation, to be taken before any Juſtice of the Peace of the ſaid county, truly and faithfully, the damages ſuſtained by the owner or owners of ſuch improved land, by reaſon or means of the aforeſaid roads or highways being laid out through the ſame, and ſhall make return thereof to the ſucceeding Supreme Court, after the order as aforeſaid made, there to be entered on record; *All* which damages, together with the expence and charge of laying out, returning and recording the ſaid roads, ſhall be paid and ſatisfied by orders drawn by the Juſtices of the ſaid Supreme Court, or any two of them, on the Treaſurer of the ſaid county, who is hereby required to pay the ſame, and to bring an account thereof unto the next ſucceeding court to be held for raiſing county levies, in order that the ſame may be aſſeſſed and levied on the inhabitants of the county aforeſaid.

Damages and coſts to be paid by the county.

Sect. 4. *And* if any perſon or perſons hereby appointed for laying out the ſaid roads ſhall refuſe to act, or happen to die before the roads ſhall be completely laid out and returned as aforeſaid, then, and in every ſuch caſe, the other Commiſſioners before named, or a majority of them, ſhall nominate and appoint, by ſome writing ſigned by them, ſome other ſuitable perſon or perſons in the room of ſuch as ſhall refuſe, or die as aforeſaid; which ſaid perſon or perſons, ſo to be nominated and appointed, are hereby impowered and required to act in the premiſes as fully as any perſon or perſons herein mentioned may or can do.

Vacancies how to be ſupplied.

Sect. 5. *And be it further enacted by the authority aforeſaid*, That each of the perſons hereby appointed, or hereafter to be nominated and appointed as aforeſaid, for laying out and returning the ſaid roads and highways, or any part thereof, ſhall receive for their trouble in attending on the ſaid buſineſs Seven Shil-

Allowance to Commiſſioners, Surveyors, &c.

CHAP. CLXXXIV. 1764.

lings and Six-pence per day, each of the Surveyors Ten Shillings per day, and the chain-carriers and mark-men Three Shillings and Six-pence per day each; which ſaid ſums ſhall be paid to them reſpectively by the Treaſurer of the ſaid county, by orders drawn by the juſtices as aforeſaid, who are hereby required to draw the ſame.

The ſaid roads not to be altered.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That the Juſtices of the Peace, in their Court of Quarter Seſſions for the county aforeſaid, ſhall not, by virtue of any act of General Aſſembly of this government now in force, have any power or authority, in any manner whatſoever, to change or alter ſuch roads or highways to be laid out and returned as aforeſaid, or any part of the ſame; *But* that all ſuch acts, ſo far as they or any of them give, or might be conſtrued to give, ſuch juſtices power to change or alter ſuch roads or highways, or any part thereof, or to appoint and order a new road or roads to be laid out and made, inſtead of the King's roads or highways herein before directed to be laid out, be and are hereby repealed, annulled and made void; any thing therein contained to the contrary notwithſtanding.

No delay in opening and clearing the roads for want of money, &c.

SECT. 7. *And*, in order that no delay may happen in grubbing, clearing and opening the ſaid roads, or in repairing and amending the King's roads, common highroads, bridges and cauſeways, within the ſaid county of New-Caſtle (except bridges lying over creeks and deep waters, as are erected or to be erected and ſupported at the common expence of the ſaid county) *(b)* for want of money to pay the labourers and workmen aforeſaid, *Be it enacted by the authority aforeſaid*, That any two Juſtices of the Peace, together with the Overſeer or Overſeers of the Poor of the reſpective hundreds in the ſaid county, ſhall and may make a rate, when they ſhall judge neceſſary, according to the rate of county aſſeſſments for the current year, *(c)* of ſuch ſum or ſums of money, in each reſpective hundred

To eſtabliſh a ſufficient fund in the hands of the Collector to pay the Overſeers and workmen their wages for making and repairing the roads in each hundred.

(b) For this ſee chap. 131. a. ſect. 6. 25 Geo. II.

(c) See chap. 187. a. ſect. 11. paſſed November 1, 1766.—And ſee alſo chap. 249. b. ſect. 13. where it is provided that Conſtables ſhall perform the duties heretofore aſſigned to Overſeers of the Poor, paſſed Feb. 4, 1792.

dred, as they the ſaid two Juſtices and Overſeer or Overſeers of the Poor ſhall judge ſufficient to eſtabliſh a fund in the hands of the Collector for the time being, to pay the Overſeer or Overſeers of the roads, their workmen and labourers, as ſoon as their ſervice ſhall be performed, by orders drawn as aforeſaid.

The Overſeers to employ labourers and workmen to repair the roads, &c. Labourers and workmen to be paid by orders drawn by one Juſtice of the Peace of the ſaid county on the Collector.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That the Overſeers of the highways, within each of the hundreds of the ſaid county, are hereby impowered and required, to employ labourers and workmen to repair and amend the aforeſaid King's roads, common highways, and any bridges and cauſeways that may be erected thereon (except as before excepted) within the limits of ſaid hundred; which ſaid labourers and workmen ſhall be paid by orders, drawn by any one Juſtice of the Peace of the ſaid county, on the Collector of the taxes for ſaid hundred. *And* if any perſon or perſons, rated or aſſeſſed as by this act is directed, ſhall refuſe to pay the ſum or ſums on them charged, by the ſpace of ten days after demand, That then it ſhall and may be lawful for the ſaid Collectors reſpectively to levy the ſame by diſtreſs and ſale, or commitment of the party, in ſuch manner as by an act, intituled, *An act for raiſing county rates and levies*,(d) he is impowered to do. *And* for the faithful performance of the truſt by this act in the Collectors reſpectively repoſed, the bonds by them reſpectively to be given, according to the directions of the act aforeſaid, for raiſing county levies aforeſaid, ſhall be and remain as a ſecurity.

Any perſon refuſing to pay his rate, the Collector to diſtrain.

The Juſtices of the Peace of ſaid county or any two of them to ſettle the Collectors accounts.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That the Juſtices of the Peace, within the county of New-Caſtle aforeſaid, or any two of them, ſhall and may, at any time and times when new Collectors of the county rates and levies are to be appointed, annually examine and ſettle the accounts of the ſaid Collectors going out of their office (ſo far as ſuch accounts relate to their proceedings under this act) and to order the then laſt Collectors to pay the balances

(d) Chap. 102. 2, ſect. 9. 16 Geo. II.

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lances in their hands to the Collectors of the reſpective hundreds for the enſuing year.

Penalty on Overſeers for neglect of duty.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That if any Overſeer or Overſeers, of the ſaid county of New-Caſtle, ſhall neglect or refuſe, as ſoon as conveniently may, to grub, clear and open the King's roads aforeſaid, ſo to be eſtabliſhed and confirmed, or ſhall after permit or ſuffer any part of the ſaid roads, or any bridges or cauſeways over the ſame, within their reſpective hundreds, to remain unpaſſible, incumbered or unrepaired, for the ſpace of fifteen days together, every ſuch Overſeer or Overſeers, for every ſuch neglect, being duly convicted thereof in any Court of Quarter Seſſions for the ſaid county, ſhall be fined the ſum of Five Pounds, to be paid to the Collector of the ſaid hundred towards defraying the charge of repairing the roads within the ſame.

Penalty on obſtructing &c. the ſaid King's highways, &c.

SECT. 11. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall preſume to obſtruct any of the aforeſaid King's highways, to be laid out and confirmed as aforeſaid, or to turn the ſame, or ſhall commit any nuiſance therein, and do not remove the ſame forthwith, ſuch perſon or perſons ſo offending, and being duly convicted thereof in manner aforeſaid, ſhall be fined in the ſum of Five Pounds, to be applied for the removing ſuch nuiſances, and repairing and clearing other roads within the hundred where the offence ſhall be committed.

The old roads to be repaired until the new ones are altered and opened.

SECT. 12. *And be it further enacted by the authority aforeſaid*, That until the ſaid King's roads are cleared and opened, the following roads, in the ſame county ſhall be deemed, taken and allowed to be public roads, and no longer; *That is to ſay*, The road leading from Cheſter, beginning at the line between the counties of Cheſter and New-Caſtle, and running from thence the ſeveral courſes of the ſaid road over Naaman's Creek bridge to Vendiver's bridge over Brandywine Creek; and from thence over Chriſtiana Ferry, near the houſe of Thomas Jacquet, to New-Caſtle, and from thence to the inn called the Red-Lyon, where John Rankin now dwells, and from the ſaid Red-Lyon to the village called St. Georges, and from thence

thence to Appoquinimink bridge, and from thence over Blackbird bridge, to the town of Salisbury, commonly called Duck-Creek: And the road leading from Vendiver's Bridge, over Brandywine Creek aforesaid, according to the several courses heretofore used to Wilmington, and from thence to Newport, and from thence over White Clay Creek new bridge to Christiana bridge, and from thence to Red-Lyon aforesaid, and from thence to the inn lately kept by Walter Crow, now by Jacob Ham, and from thence to the inn kept by Joseph Jacquet, and from thence to Blackbird bridge aforesaid; and also the road leading from New-Castle according to the several courses heretofore used to Christiana bridge aforesaid.

The former act confirmed, &c.

SECT. 13. *Provided always*, That all and every other part and clause in the act of Assembly aforesaid, and every proceeding under the same, shall continue in full force, save only such parts and proceedings as hereby are altered and amended.

Passed March 31, 1764.

CHAP. CLXXXV. a.

1764.

An ACT *for the more easy and speedy recovery of small debts.* Expired by its own limitation for five years—Re-enacted with alterations in chap. 197. a. without limitation.

CHAP. CLXXXVI. a.

1766.

An ACT *for the amending the laws relating to testamentary affairs, and for the better settling intestates estates.*

Preamble.

WHEREAS the laws of this government relating to testamentary affairs, and the act, intituled, *An act for the better settling intestates, (a)* are by experience found to be deficient, SECTION

(a) Chap. 119. a, 24 Geo. II

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SECTION 2. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That the Juſtices of the Orphans Courts of the county in which the lands and tenements of the inteſtate ſhall lie, upon application to be made by the widow of the inteſtate, or by any guardian or guardians of any of the children, or other heirs of the inteſtate under age, or by any aſſignee or aſſignees of any children or other heirs of the inteſtate which were of age before ſuch aſſignment, ſhall have the ſame power and authority to make partition and diviſion of the lands of the inteſtate, or where partitions and diviſions cannot be made without prejudice to, or ſpoiling the whole, in that caſe to value, adjudge and order the premiſes (the widow's thirds thereof during her natural life always excepted) to the legal repreſentatives of the children of the inteſtate, or their aſſigns, ſucceſſively, being of full age, as they may or can do to or amongſt the ſons and daughters of an inteſtate under the act for the better ſettling inteſtates eſtates above mentioned, he, ſhe or they, to whom the premiſes ſhall be adjudged, paying the reſpective ſhares of the valuation money, or giving ſufficient ſecurity for the ſame, as in the ſaid act is directed and appointed. *(b)*

Juſtices of the Orphans Courts may make partition of the lands of inteſtates amongſt minors, aſſignees, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That where any valuation ſhall be made of the lands and tenements of the inteſtate, there being no child, or children, nor any legal repreſentatives or aſſignees of them, then and in ſuch caſe the Orphans Court of the county, where the ſaid lands and tenements lie, ſhall order the whole thereof (the widow's moiety during her natural life always excepted) to the eldeſt brother, or his legal repreſentatives, or aſſignees, if he or they will accept it, or on his or their refuſal, to any other of the brothers, or their legal repreſentatives,

Proceedings where lands cannot be divided, &c.

(b) Chap. 119. 2, ſects. 6, 7, 8.

tives, or aſſignees ſucceſſively; and if all of them refuſe, or there ſhould be none ſuch, then to the eldeſt ſiſter, or her legal repreſentatives or aſſignees; or on her or their refuſal, to every other of the ſiſters or their legal repreſentatives or aſſignees ſucceſſively; and if there ſhould be none ſuch, then to the moſt worthy of blood amongſt the next of kindred of the inteſtate, or his or her legal repreſentatives or aſſignees; or on his, her or their refuſal, to every other of the next of kindred (who are in equal degree) or their legal repreſentatives or aſſignees ſucceſſively; he, ſhe or they, to whom the premiſes ſhall be adjudged, being of full age as aforeſaid, and paying or ſecuring the payment of the reſpective ſhares of the valuation-money, as in and by the ſame act for the better ſettling of inteſtates eſtates is directed and appointed. *(c) Provided always*, That in the diviſion of inteſtates real eſtates there be no repreſentatives admitted amongſt collaterals after brothers and ſiſters grand-children.

Wife married and children born after the making a will, how provided for.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That where any perſon ſhall make his or her laſt will and teſtament, and afterwards ſhall marry or have a child or children born after making ſuch will, not provided for in any ſuch will, or otherwiſe, by the ſaid teſtator, and die, every ſuch perſon ſo far as ſhall regard the wife, and child or children after born, ſhall be deemed and conſtrued to die inteſtate, and ſuch wife, and child or children, ſhall be intitled to like purparts, ſhares and dividends of the eſtate, real and perſonal, of the deceaſed, as if he or ſhe had died inteſtate, and no ſuch will had ever been made; and in ſuch caſes, the Juſtices of the reſpective Orphans Courts, ſo far as regard the wife after married, or child or children after born, or any child or children *in ventre ſa mere*, and born after the death of their father, the teſtator, ſhall have the ſame power and authority to make diſtributions, partitions and diviſions; or where partitions and diviſions cannot be made without prejudice to, or ſpoiling

(c) Chap. 119. a. ſect. 8.

CHAP. CLXXXVI. 1766.

ing the whole of, that part of the eſtate deviſed to any child or children aforeſaid, in that caſe to value, adjudge and order the premiſes (the widow's third during her natural life always excepted) to the deviſee or deviſees of ſuch part of the eſtate as cannot be divided as aforeſaid, and on the refuſal of ſuch deviſee or deviſees to the children ſucceſſively, as they may or can do where a perſon dies wholly inteſtate, and the deviſee or deviſees, or the child to whom the premiſes ſhall be adjudged, ſhall pay the money, or give ſufficient ſecurity for the ſame, as in the ſaid act for the better ſettling inteſtates eſtates is directed, where the perſon dies inteſtate as aforeſaid. And the ſame juſtices are hereby further impowered to aſcertain and tax the coſts and charges that may ariſe and accrue on any partition and diviſion or valuation of lands to be made either in purſuance of this act, or of the ſaid act for the better ſettling of inteſtates eſtates, and award the payment of the ſame by all the parties concerned according to their reſpective purparts in ſuch diviſion or valuation.

Coſts of partition or valuation by whom to be paid.

What an inventory ſhall contain.

Sect. 5. *And* that every executor or adminiſtrator in his inventory ſhall return a liſt of all the outſtanding ſperate and deſperate debts due and owing to the deceaſed at the time of his death that ſhall come to his knowledge.

Sect. 6. *And* foraſmuch as many frauds may be committed by permitting ſpecialties, or other ſecurities for the payment of money or goods, to be ſufficient evidence of the ſums of money, or quantity of goods, due thereon againſt the executors or adminiſtrators, of perſons dying within this government, without any affidavit made by the creditor, his executor or adminiſtrator that the whole thereof was due; for prevention whereof, *Be it enacted by the authority aforeſaid*, That every creditor having any ſum of money, quantity of grain, or other goods or debts due from the eſtate of any deceaſed perſon, by judgment, ſtatute, recognizance, mortgage, obligation, promiſſory note, proteſted bill of exchange, or other writing, ſhall be obliged, before the executor or adminiſtrator pay the ſame, to make a ſolemn oath, or affirmation (if they conſcienciouſly refuſe to take an oath)

No debt to be paid by an executor or adminiſtrator before proved by oath or affirmation.

oath) before ſome Judge, Juſtice of the Peace, or other perſon duly authoriſed to adminiſter oaths and take probates, that no part of their ſaid debts hath been paid, nor any thing elſe given or delivered towards ſatisfaction thereof, more than is taken notice of in ſuch oath or affirmation. *(d)* And every executor or adminiſtrator of a creditor ſhall, before the receipt of any debt due as above, make oath or affirmation (if they conſcienciouſly refuſe to take an oath) *That to their knowledge, nor by any book, writing, or other thing appearing to them, the creditor in his life-time, or ſuch his executor or adminiſtrator after his deceaſe, did not receive any part or parcel of the debt, or other ſecurity, or ſatisfaction for the ſame more than is mentioned in their oath or affirmation.* And if any ſuit be brought againſt any executor or adminiſtrator for the recovery of any debt due as above, and the plaintiff or plaintiffs ſhall refuſe ſo to ſwear or affirm, they ſhall be nonſuit, and pay full coſts of ſuit. *Provided always*, That ſuch nonſuit ſhall not bar againſt the bringing of a new action, the plaintiff or plaintiffs proving as above directed. And whoever ſhall wittingly and willingly ſwear or affirm falſly in the premiſes ſhall ſuffer as guilty of wilful perjury.

Guardians to give bonds for minors eſtates coming to their hands.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That the ſeveral and reſpective Orphans Courts, within this government, may and ſhall, and they are by this act required and directed, upon the choice of any guardian or guardians by any orphan or minor, who ſhall be of age to chooſe a guardian, or upon the appointment by the ſaid courts of any guardian or guardians over ſuch orphans or minors as are too young, or incapable according to the rules of the common law to make choice themſelves, to cauſe ſuch guardian or guardians, upon their acceptance of the guardianſhip, to enter into bond, in a ſufficient penalty, with one or more able ſureties, in the names of the orphans or minors, for ſecuring and delivering their eſtates to them, their heirs, executors or adminiſtrators, when thereunto legally called. And no

(d) As to proving accounts in ſuch caſe, ſee chap. 136. a. ſect. 3. 25 Geo. II. and chap. 248. b. ſect. 3. paſſed February 4, 1792.

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executor, adminiſtrator or former guardian, ſhall pay or deliver to ſuch guardian, ſo choſen or appointed, the eſtate of ſuch orphan or minor, until ſuch ſecurity be ſo given, and a copy of ſuch order, under the hand of the Clerk of ſuch Court, delivered unto ſuch adminiſtrator or former guardian.

Juſtices of the Orphans Court to enquire into the ſufficiency of their ſecurities, &c,

SECT. 8. *And be it further enacted by the authority aforeſaid*, That the Juſtices in their reſpective Orphans Courts aforeſaid, ſhall once in every year, or oftener, enquire into the ſufficiency of the ſecurity ſo to be given by guardians as aforeſaid; and the ſaid juſtices, in their ſaid courts, ſhall have power and authority, as often as they ſhall find it neceſſary, to oblige ſuch guardian or guardians to give new or better ſecurity: And in caſe of refuſal or neglect, it ſhall and may be lawful for them, and they are by this act required, immediately to remove the perſon and eſtate of ſuch orphan or minor into other hands; and in caſe the guardian or guardians as aforeſaid, ſhall not obey ſuch order of removal, then the ſaid juſtices ſhall and may force obedience thereto, by ſending their attachment, impriſonment of body, or ſequeſtration of lands and goods, as fully and amply as they, or any Court of Equity in this government, in any other caſe may or can do.

The bonds of guardians and indentures of minor apprentices to be recorded in the Orphans Court.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That the Juſtices of the reſpective Orphans Courts of this government ſhall cauſe the bonds they take from guardians or other perſons having the care or truſt of minors eſtates, and likewiſe all indentures from minor apprentices bound or put to trades, huſbandry or other employments, by order and direction of the ſame courts, to be recorded in ſuch court.

An eſtimate of the annual value &c. of Orphans lands to be made, within ſix months after guardianſhip committed, by three freeholders,

SECT. 10. *And be it further enacted by the authority aforeſaid*, That all guardians of orphans or minors, who ſhall have any real eſtates in land, with the orphans or minors to whom the ſame belong, committed to them (other than ſuch whom the teſtator in his life-time hath otherwiſe ordered and diſpoſed of) ſhall, within ſix months after taking upon themſelves the guardianſhip, with three freeholders of the county where the lands lie, of good repute and well ſkilled

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in building and plantation affairs, neither of them being of kin, indebted or otherwiſe intereſted in orphan or guardian (ſuch freeholders being to be nominated and appointed by the reſpective Orphans Courts of the county where the lands lie) enter into the land or plantation of ſuch orphan or minor, and view the dwelling-houſes, out-houſes, lands, orchards and fences; and before ſuch entry, the ſaid freeholders ſhall take their corporal oaths, or affirmations (if they or either of them ſhall conſcienciouſly refuſe to take an oath) by any juſtice to be adminiſtred, that according to their beſt ſkill and judgment they will make a juſt eſtimate of the annual value of the ſaid lands and plantations, what dwelling-houſes, out-houſes and orchards are upon the ſame, and what repair they are in, what part of the ſaid lands the ſaid guardian may be further permitted to clear, as well to raiſe the yearly rent ſo valued, as towards his yearly charge in keeping the ſaid dwelling-houſes, orchards and fences in repair, and ſo by him to be left, always having regard to leave a proportionable part both for quantity and quality of uncleared land for the benefit and advantage of the orphans or minors when at age; and the ſame to certify under their hands, or the hands of any two of them, to the Orphans Court next enſuing, there to remain on record till the orphan or minor comes to be of age; which certificate ſo entered on record ſhall be ſufficient evidence in law for recovering double damages in an action of waſte, ſale or deſtruction, in any of the premiſes, committed by the ſaid guardians, or by their procurement or conſent, other than what is certified and thought neceſſary, with due reſpect had to all circumſtances.

Penalty on guardians, &c. neglecting, &c.

SECT. 11. *And be it further enacted by the authority aforeſaid*, That the guardian neglecting to do what is above directed ſhall forfeit the ſum of Fifty Pounds; and the ſaid freeholders neglecting or refuſing to do what is above injoined them, being thereunto demanded, ſhall forfeit the ſum of Five Pounds each; one moiety of ſaid fines to the orphan or minor, and the other moiety to the perſon who will ſue for the ſame, to be recovered with coſts by any action of debt,

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debt, bill, plaint or information, in any Court of Record within this government wherein no eſſoine, protection or wager of law, nor more than one imparlance ſhall be allowed.

No perſon to enter into, poſſeſs, &c. the lands of minors without licence from their Guardians, or Orphans Court.

SECT. 12. *And be it further enacted by the authority aforeſaid*, That it ſhall not be lawful for any perſon, not being guardian, or without licence from a guardian, to enter into, poſſeſs or occupy any lands or tenements belonging to any orphan or minor, without applying to and obtaining leave from the reſpective Orphans Courts of the county where ſuch lands and tenements lie, for ſuch rent as the court ſhall think reaſonable, to be paid to the orphan or minor, on pain of being treſpaſſers, paying treble damages and full coſts, to be recovered by the guardian during minority, or by the orphan or minor at full age.

Wards when of age may take poſſeſſion of their lands, &c.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That when any orphan or minor ſhall attain his or her full age, it ſhall and may be lawful for ſuch orphan or minor to enter into all lands, tenements or hereditaments whatſoever, which the guardian of ſuch orphan or minor ſhall come to the poſſeſſion, or receive the rents, iſſues or profits of, under, or by colour of the right or title of ſuch orphan or minor, or in virtue or by occaſion of his or her guardianſhip of ſuch orphan or minor. And in caſe the guardian aforeſaid, obtaining the poſſeſſion, or coming into the perception of the rents, iſſues and profits in manner aforeſaid, ſhall refuſe, upon demand of his orphan or minor, ward under his or her care (upon the ſaid orphan or minor attaining his or her age as aforeſaid) to yield or give up quiet poſſeſſion of the ſame, ſuch orphan or minor ſhall or may have or maintain his or her action, in which he or ſhe ſhall recover poſſeſſion of the ſame without ſhewing or being obliged to diſcloſe any other title thereto than that the defendant came into the poſſeſſion thereof in his or her right as guardian, together with treble damages and full coſts of ſuit.

and if hindered by their guardians may recover the ſame without diſcloſing their title, other than that the guardians entered in their right.

Adminiſtration or guardian bonds to be ſued within ſix years, ſaving, &c.

SECT. 14. *And be it further enacted by the authority aforeſaid*, That all actions upon adminiſtration or guardian bonds hereafter executed ſhall be commenced within ſix years after the paſſing the ſaid bonds; and

and all actions to be commenced on any ſuch bonds already given ſhall be brought within ſix years after the publication of this act, and not after, ſaving the right of any perſon or perſons who ſhall be within the age of twenty-one years, *Feme Covert*, *non Compos Mentis*, impriſoned, beyond ſea, or out of this government, of bringing ſuch action or actions within three years after their coming to or being of, full age, diſcoverture of ſound memory, at large, or returning into this government.

Remedy for ſureties in adminiſtration or guardian bonds.

SECT. 15. *And be it further enacted by the authority aforeſaid*, That the ſeveral Orphans Courts within this government, when petitioned by the ſureties in adminiſtration or guardian bonds, or their repreſentatives, and upon making it appear that they are in danger of ſuffering by ſuch ſurety, are hereby impowered and required to cauſe the adminiſtrators or guardians to give the petitioners ſufficient counter ſecurity to indemnify them from ſuch bonds, and in caſe they refuſe ſo to do, to iſſue an attachment againſt their bodies to compel them thereto. And in caſe ſuch adminiſtrator or guardian ſhall not be able, or refuſe, to give ſuch ſecurity, the ſaid Orphans Courts are alſo impowered and required to order ſuch eſtate, or ſuch part thereof as ſhall be left in the hands of ſuch adminiſtrator or guardian, to be delivered into the hands of ſuch ſureties, or either of their legal repreſentatives, who are impowered, by proceſs of attachment or diſtreſs, to be iſſued out of the ſaid court, to take and poſſeſs themſelves of the ſame; and on receipt thereof ſhall be obliged to return an account of what they receive to the Orphans Court next enſuing, appraiſed upon oath or affirmation by two indifferent perſons to be appointed by the court, and the ſaid adminiſtrator or guardian ſhall be diſcharged of ſo much as the ſaid ſureties or their repreſentatives ſhall receive by virtue of ſuch order or proceſs.

SECT. 16. *Provided always, and be it enacted by the authority aforeſaid*, That the ſaid ſureties, or their repreſentatives, before they obtain an order of any Orphans Court for the delivering any eſtate into their hands, ſhall enter into a bond to the Governor for the time being, and his ſucceſſors, before that court, with

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one or more ſufficient ſureties, in ſuch ſum as the ſame court ſhall judge neceſſary, under condition to be void on the ſaid ſureties, or their repreſentatives, their delivery or payment of all goods and chattels which ſhall or may come to their poſſeſſion by virtue of or under ſuch order, or the value of them, as the laws of this government require, to any perſon or perſons who have right to demand the ſame when thereunto required; which bonds ſhall be filed or lodged in the Orphans Court wherein they are made, and ſhall and may be ſued by any creditor or other perſon or perſons who ſhall be injured by the non-performance of their conditions, in ſuch manner as adminiſtration bonds now are ſued.

All acts of adminiſtrators before notice of a will, to remain good, &c.

SECT. 17. *And be it further enacted by the authority aforeſaid*, That all lawful acts done, or to be done *bona fide*, by any adminiſtrator, before notice of a will, and all purchaſes made of ſuch adminiſtrator *bona fide*, before ſuch notice, ſhall remain good, and ſhall not be impeached or altered by any executor or executors, deviſee or deviſees, legatee or legatees, on ſuch will after appearing. *Provided always*, That when at any time after ſuch will ſhall appear, the executor or executors, deviſee or deviſees, legatee or legatees therein named, ſhall have the ſame remedy againſt ſuch adminiſtrator or adminiſtrators for the goods and chattels, rights and credits, remaining unadminiſtred, and againſt the perſon or perſons in poſſeſſion of the ſame, otherwiſe than by purchaſe made as aforeſaid, as he, ſhe or they, ought to have had before the making of this act.

Huſbands to have adminiſtration of their wives eſtates:

SECT. 18. *And* for the explaining the ſaid act of Aſſembly, intituled, *An act for the better ſettling inteſtates eſtates*, Be it declared by the authority aforeſaid, That neither the ſaid act, nor any thing here or therein contained, ſhall be conſtrued to extend to the eſtates of *Feme Coverts* that ſhall die inteſtate, but that their huſband may demand and have adminiſtration of their rights and credits, and other perſonal eſtates, and recover and enjoy the ſame as they might have done before the making of the ſaid act, or of any former inteſtate act of this government.

SECT. 19. *And be it further enacted by the authority aforeſaid*,

aforeſaid, That ſo much of the act before mentioned, intituled, *An act for the better ſettling of inteſtates eſtates*, as is hereby altered, ſhall be and is hereby repealed, declared null and void, but that all other clauſes, matters and things, in the ſaid act contained, ſhall be and are hereby declared to be in full force, ſtrength and virtue, as fully to all intents, conſtructions and purpoſes, as if this preſent act had not been made.

SECT. 20. *And foraſmuch* as there is at preſent no court inſtituted for the hearing appeals from the ſentence of the Regiſters for the probate of wills and granting letters of adminiſtration within the ſeveral counties of this government,

Courts of Delegates inſtituted to hear appeals from the Regiſters.

Be it therefore enacted by the authority aforeſaid, That there ſhall be a Court of Record erected, held and kept in each of the counties within this government, as often as occaſion ſhall require, at the places where the reſpective Courts of Common Pleas are now held, which ſhall be ſtiled, *The Court of Delegates*; and that there ſhall be three perſons of known integrity, learning and ability, commiſſionated by the Governor, or his Lieutenant for the time being, under the Great Seal of this government, to be Judges of the ſaid Court; which ſaid judges, or any two of them, ſhall and may hear and determine all ſuch appeals as ſhall be made unto them from the Regiſter or Regiſters for the probate of wills and granting letters of adminiſtration within the county for which they are appointed judges. *(e)*

Clerks of ſaid courts to be commiſſioned by the Governor.

SECT. 21. *And be it further enacted by the authority aforeſaid*, That the Governor, or Lieutenant Governor for the time being, ſhall alſo appoint a Clerk to each of ſaid Courts of Delegates, by commiſſion under the Great Seal of this government, and that the coſts and charges of the ſaid commiſſions to the ſaid Judges and Clerk, ſhall be paid by the ſaid counties reſpectively. *(e)*

Sentence of Regiſters to be of force until reverſed.

SECT. 22. *And be it further enacted by the authority aforeſaid*, That the ſentence of the Regiſters reſpectively,

(e) Note that no commiſſion ever iſſued under the ſects. 20, 21. and that they, as ſects. 23, 24. are repealed and ſupplied in art. 6, ſect. 17. of the conſtitution of this ſtate adopted in June 1792.

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tively ſhall be of full force and effect, to all intents and purpoſes, until the ſame is reverſed by the Court aforeſaid, any thing herein contained to the contrary notwithſtanding. *(e)*

Appeal to be entered with the Clerks within thirty days.

SECT. 23. *And be it further enacted by the authority aforeſaid*, That every perſon appealing from the ſentence of the Regiſters aforeſaid reſpectively, ſhall, within thirty days at fartheſt after ſuch ſentence given, if the appellant reſides within this government, and three months at fartheſt when ſuch perſon ſo appealing as aforeſaid ſhall dwell out of this government, enter his or her appeal with the Clerk of the ſaid Court of Delegates, who ſhall give notice thereof to the Judges of the ſaid Court in ſuch convenient time as that the ſaid judges may, on a day by them to be appointed in the week for holding the County Court of Common Pleas in and for each county reſpectively, next after the ſaid appeal, entered as aforeſaid, meet to hear and determine the ſame (due notice having been firſt given to the parties concerned in intereſt) upon a petition preſented to them for that purpoſe. *(e)*

Fees to the Judges and Clerks.

SECT. 24. *And be it enacted by the authority aforeſaid*, That the fees of the ſaid court ſhall be as is herein aſcertained, limitted and appointed, *to wit*, To the firſt named of the ſaid judges, for every days attendance in the ſaid court, the ſum of Twenty-five Shillings, and to each of the other judges, Twenty Shillings, to be paid by the county, where ſuch court is held, and to be raiſed in the ſame manner as other county rates and levies are: For every final ſentence given by them, Eight Shillings, to be paid by the party againſt whom the ſame is given. To the Clerk of the ſaid Court, to be paid by the party, for entering every appeal, Ten Shillings: Filing the petition, Two Shillings: Reading the petition, Two Shillings: For minuting and drawing up the proceedings and final ſentence, Twenty Shillings: For a copy or exemplification thereof, for every line, (not leſs than twelve words) One Penny: For every ſearch, One Shilling and Six-pence: Affixing the ſeal of the ſaid court, with a certificate, One Shilling and Six-pence: and for any other ſervices, not herein mentioned,

tioned, ſuch fees as the Judges of the ſaid court ſhall think equitable and juſt, and no more. *(e)*

SECT. 25. *And be it further enacted by the authority aforeſaid*, That this act ſhall continue and be in force for the term of ſeven years, and from thence to the end of the next Seſſion of Aſſembly, and no longer. *(f)*

Paſſed November 1, 1766.

CHAP. CLXXXVII. a.

An ACT *directing the choice of Inſpectors and Aſſeſſors in this government, and for the amendment of an act, intituled,* An act for raiſing county rates and levies. 1766.

WHEREAS the preſent method of chooſing Inſpectors and Aſſeſſors *(a)* is found by experience to be attended with many inconveniencies, and often createth great delay in the General Elections; and the aforeſaid act, *for raiſing county rates and levies*, *(b)* doth not anſwer all the good purpoſes thereby intended; Preamble.

SECTION 2. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That the freeholders and others who are duly qualified to elect, and be elected Members of Aſſembly in each hundred, within this government, ſhall yearly and every year hereafter meet on the fifteenth day of September, or if the ſame ſhould happen on Sunday, then the next day following, at ſome convenient place within their ſaid reſpective Time, place and manner, of chooſing Inſpectors and Aſſeſſors,

(f) Made perpetual in chap. 222. a. paſſed Nov. 6, 1773.

(a) As in chap. 61. a. ſect. 37 Geo II.

(b) Chap. 102, a. 16 Geo. II.

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hundreds, to be appointed by the Collector of the Public Taxes for ſaid hundred; and in caſe of his death, abſence, neglect or refuſal, then at ſuch convenient place within ſuch hundred as the Overſeers of the Poor, *(c)* ſhall appoint; and the ſaid Electors ſhall between the hours of twelve in the forenoon, and ſix in the afternoon the ſame day, during all which time the election ſhall continue, in the preſence of the Collector, and ſuch two freeholders as he ſhall call to his aſſiſtance, or in caſe of his death, abſence, neglect or refuſal, the Overſeers of the Poor, proceed to chooſe by balloting one able and diſcreet freeholder, reſiding within the ſaid hundred, who may be ſuppoſed to be the beſt acquainted with the eſtates and circumſtances of the inhabitants, to be the Inſpector, and alſo the ſame, or ſome other freeholder to be the Aſſeſſor for the year enſuing.

Collectors to give notice where the Hundred Election ſhall be held, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the Collectors of the reſpective hundreds, or in caſe of their death, abſence, neglect or refuſal, then the Overſeers of the Poor of ſuch hundred, *(c)* or one of them, ſhall, at leaſt ten days before the ſaid fifteenth day of September, in every year, give notice of the place where ſuch election ſhall be made, by affixing advertiſements for that purpoſe in five of the moſt public places at the leaſt, in their ſeveral hundreds, upon pain of forfeiting the ſum of Twenty Pounds each; and that the ſaid Collector, or Overſeers of the Poor, ſhall call to their aſſiſtance two ſubſtantial freeholders of the ſaid hundred, being there preſent, who ſhall aſſiſt them in judging of the ſaid election, and in taking the votes; and who, together with the Collector or Overſeers aforeſaid, ſhall, as ſoon as the election is cloſed, certify under their hands and ſeals the names of the perſons ſo choſen; and the ſaid Collector, or other Judges of the ſaid Hundred Election, ſhall immediately give notice to the perſon ſo elected to be Inſpector, that he may give his attendance at the next election for Members of Aſ-

ſembly

(c) See chap. 249. b. ſect. 13. paſſed Feb. 4, 1792, where it is provided that Conſtables ſhall perform the duties theretofore aſſigned to Overſeers of the Poor.

ſembly accordingly, and ſhall likewiſe at the ſame time furniſh him with an alphabetical liſt of the names of all taxables within the ſaid hundred, to enable him the better to judge of the qualifications of the electors at the next election for Members of Aſſembly, under the penalty of Three Pounds: And the certificates aforeſaid ſhall be delivered by the Collectors, or Overſeers of each hundred, to the Sheriff, or other Judge or Judges of the Election of the county to which they belong, before the hour of ten in the forenoon of the day whereupon the election of Members of Aſſembly ſhall happen, and the names of the Inſpectors therein named ſhall be declared and publiſhed by the Judge of the ſaid County Election in the preſence of the electors, or ſo many of them as ſhall be preſent; and the perſons ſo named ſhall be for that year Inſpectors of the ſaid election.

Collectors, &c. to deliver certificates of the names of perſons choſen Inſpectors, &c. to the Sheriff.

SECT. 4. *Provided always*, That the Inſpectors of the ſeveral hundreds within this government, ſhall receive the votes or tickets of the electors of the hundreds for which they are choſen and no other, and that the name of every perſon ſhall be marked off by the Inſpectors aforeſaid at the time of his voting, by writing the word *voted* in the margent of the liſts of the taxables of their reſpective hundreds, to be lodged in the hands of the ſaid Inſpectors for the purpoſes aforeſaid.

Duty of Inſpectors.

SECT. 5. *Provided alſo*, That if any of the ſaid Inſpectors ſhould be dead, or not attend at the ſaid County Election, then and in ſuch caſe the electors preſent of the hundred for which ſuch Inſpector was choſen, ſhall forthwith proceed to chooſe another freeholder in his ſtead, in the ſame manner as is directed by the act of Aſſembly of this government, intituled, *An act for regulating elections, and aſcertaining the number of the Members of Aſſembly*,(d) and that the perſon ſo choſen ſhall be Inſpector for ſaid hundred at the ſaid County Election.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That the Sheriffs, or other Judges of the reſpective

(d) Chap. 61. 2, ſect. 3. 7 Geo. II.

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respective County Elections for this government, shall within three days after said election return, or cause to be returned, the certificates aforesaid into the Office of the Clerk of the Peace for the said county, there to be filed and kept; and every Inspector and Assessor so chosen shall serve in said offices respectively, under the penalty of Five Pounds; and in case of the death, removal out of this government, refusal or disability to serve in said office of any such Assessor, others shall be appointed in their stead, and for such time as by the act, intituled, *An act for raising county rates and levies*, is prescribed; *(e)* and every of the said Inspectors and Assessors, before they enter upon the service and duty of their said offices, shall take the qualifications prescribed to be taken by Inspectors *(f)* and Assessors *(g)* respectively by the laws of this government, under the penalty of Fifty Pounds.

Penalty on Inspectors and Assessors not serving, and the vacancies of Assessors, how to be supplied.

Authority of Inspectors and Assessors,

SECT. 7. *And be it further enacted by the authority aforesaid*, That the said Inspectors and Assessors, so chosen, shall and may perform and execute every act, matter and thing, that any Inspector or Assessor can or ought to do respectively before the making of this act by virtue of any law now in force.

Penalty on Sheriffs, &c. neglecting, &c.

SECT. 8. *And be it further enacted by the authority aforesaid*, That if any Sheriff or Coroner, Collector or Overseer of the Poor, being judges of such elections as aforesaid, shall neglect to do the duties hereby enjoined them respectively, or shall wilfully misbehave themselves in the execution of the same, and be thereof legally convict, such person so offending shall forfeit the sum of Twenty Pounds.

List of taxables to be delivered by the Collectors to the Assessor of each hundred, &c.

SECT. 9. *And*, the better to enable the Assessors to judge of the estates and circumstances of the inhabitants, and assess them equally and impartially, *Be it enacted by the authority aforesaid*, That the Clerk of the Peace in each county shall, and he is required, at every August Sessions, to issue forth precepts, directed to the

(e) Chap. 102. a. sect. 2. 16 Geo. II.—See also chap. 98. c. sect. 12. passed February 9, 1796.

(f) For this see chap. 207. a. passed June 13, 1772.

(g) For this see said chap. 98. c. sect. 29.

the Collectors of every hundred, requiring them to deliver to the Aſſeſſors, on or before the tenth day of October next after the date of ſuch precepts, fair and true liſts in writing, upon their oaths or affirmations, of the names and ſirnames of all and every the perſons reſiding, dwelling and ſojourning, within the limits of the hundreds with which they ſhall be charged; together with an account of all the tracts or parcels of land and tenements which belong to any other perſon or perſons not reſiding within the ſame hundred, and how many and what parts of thoſe tracts are ſettled, improved and cultivated, and the names of the tenants or perſons in the actual poſſeſſion of the the ſame, without concealment, fear, malice, favour or affection, upon pain of forfeiting any ſum not exceeding Five Pounds, to be levied and appropriated as by the ſaid act for raiſing county rates and levies is appointed. And every of the ſaid Collectors ſhall have and receive of the Treaſurer of the reſpective counties for the time being, the ſum of Five Shillings for every hundred taxable perſons reſiding within their reſpective hundreds for their care and trouble in making and returning the ſaid liſts in manner aforeſaid. *(b)*

Penalty on neglect.

SECT. 10. *And be it enacted by the authority aforeſaid*, That the Aſſeſſors of the reſpective counties ſhall, and they are hereby required to meet together, as by the aforeſaid act is directed, and unite in rating and aſſeſſing every inhabitant and taxable within their reſpective counties; and ſhall allot and aſcertain the rate and aſſeſſment of every freeholder in ſome one hundred where his lands lie, to be paid to the Collector of ſuch hundred, and no other, in full of his levy for that year within the ſaid county. *(b)*

All the Aſſeſſors of a county to unite in rating each taxable,

and aſcertain his rate in the hundred where his lands lie.

SECT. 11. *Provided always, and it is hereby enacted*, That the Aſſeſſors of the ſeveral hundreds within the county of New-Caſtle, may, and ſhall in their rates to be made as aforeſaid, particularly inſert the ſum at which they aſſeſs every freeholder for the real eſtate belonging to him in each hundred, in order that his lands

Aſſeſſors in the county of New-Caſtle to ſet down the ſum they aſſeſs every freeholder for his real eſtate in each hundred.

(b) See ſaid chap. 98. c. from ſect. 4 to 10 both inclusive, and ſects. 16, 17, 20. 32. further and other proviſion made, and various other duties to be performed by Aſſeſſors.

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lands may be aſſeſſed for the repairing and maintaining the public roads and highways in the hundred where the ſame lie as heretofore; and that the Aſſeſſors may and ſhall, and they are hereby authorized and required to rate and aſſeſs the lands aforeſaid, or poor perſons, within the ſaid county, at ſuch ſum or ſums as they ſhall think reaſonable and juſt, any thing herein, or in the act of Aſſembly aforeſaid for the raiſing county rates and levies to the contrary notwithſtanding: And the ſaid Aſſeſſors ſhall not ſit, nor have any voice, in hearing and determining any appeal from their rates or aſſeſſments. *(h)*

Penaltyon Clerk of the Peace for neglect, &c.

SECT. 12. *And be it enacted by the authority aforeſaid*, That if any Clerk of the Peace within this government ſhall neglect or refuſe to do the duties required of, and enjoined him by this, or by the aforeſaid act, he ſhall forfeit and pay the ſum of Twenty Pounds. *(i)*

Penalties how to be recovered, &c.

And all the penalties and forfeitures mentioned in this act, where no mode is preſcribed for recovering the ſame, may and ſhall be recovered in any Court of Record within this government, by action of debt, bill, plaint, or information, wherein no eſſoine, protection or wager of law, or more than one imparlance ſhall be allowed; and the ſame ſhall be paid, one half to the Treaſurer for the time being, for the uſe of the poor of the ſaid county where ſuch neglect or offence is committed, and the other half to him or them that ſhall ſue for the ſame.

SECT. 13. *And be it enacted by the authority aforeſaid*, That the ſaid Aſſeſſors for their time and labour in the premiſes ſhall, beſides the allowance now made by the aforeſaid act, have and receive the ſum of Fifteen Shillings each. *(k)* And the ſaid Collectors or Overſeers of the Poor ſhall be allowed for the ſervice required of them by this act, as judges of the aforeſaid elections, the ſum of Ten Shillings, each, and no more; which ſaid ſums the Treaſurer is hereby required to pay them accordingly.

SECT.

(i) See ſaid chap. 98, c. ſects. 18, 19, 23, 24. for other duties enjoined the Clerk of the Peace, &c.

(k) See ſaid chap. 98. c. ſect. 23. other compenſation provided—and alſo chap. 18. c. paſſed June 14, 1793.

SECT. 14. *And whereas* the oaths taken by Aſſeſſors and Grand Jurors do not relate to their duty as Members of the Levy Court within this government, *Be it enacted by the authority aforeſaid*, That the Aſſeſſors and Grand Jurors reſpectively, before they enter upon the duties required of them as Judges of the Levy Court by the aforeſaid act for the raiſing county rates and levies, ſhall take an oath or affirmation to the effect following, *viz.* (1)

Qualifications of Aſſeſſors and Grand Jurors as Judges of the Levy Court.

I A. B. *will well and faithfully diſcharge the truſt in me repoſed by virtue of the act of Aſſembly of this government, intituled*, An act for raiſing county rates and levies, *as one of the members of this court, according to the beſt of my ſkill and knowledge, without prejudice or partiality.*

SECT. 15. *Provided always*, That all and every part of the ſaid act for raiſing county rates and levies, and the ſupplement thereto paſſed in the twenty-fifth year of his late Majeſty's reign, ſhall be and continue in full force, ſave only thoſe parts which by this preſent act are altered and amended.

Paſſed November 1, 1766.

CHAP. CLXXXVIII. a.

A Supplement to an act for the further and better regulation of ſervants and ſlaves within this government. 1767.

Preamble.

WHEREAS it is found by experience, that free Negroes and Mulattoes are idle and ſlothful, and often prove burthenſome to the neighbourhood wherein they live, and are of evil example to ſlaves: *And whereas* the abovementioned act, for the further and better regulation of ſervants and ſlaves, has not been

(1) By "An act to amend the laws of this ſtate for raiſing county rates and levies" paſſed June 14, 1793, The powers of the Levy Court are veſted in Commiſſioners to be choſen as therein directed, whereby the Aſſeſſors and Grand Jurors are excluded from being members of that court.

CHAP. CLXXXVIII. 1767.

been found to anſwer all the good purpoſes thereby intended, We pray that it may be enae d;

SECTION 2. *And be it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietaries of the ſaid counties and province, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if any maſter or miſtreſs ſhall, by will or otherwiſe, diſcharge or ſet free any Mulatto or Negro ſlave or ſlaves, he or ſhe, or his or her executors or adminiſtrators, at the next reſpective County Court of Quarter Seſſions, ſhall enter into a recognizance with ſufficient ſureties, to be taken in the name of the Treaſurer of the ſaid county for the time being, in the ſum of Sixty Pounds for each ſlave ſo ſet free, to indemnify the county from any charge they or any of them may be unto the ſame, in caſe of ſuch Negro or Mulattoe's being ſick, or otherwiſe rendered incapable to ſupport him or herſelf; and that until ſuch recognizance be given, no ſuch Negro or Mulatto ſhall be deemed free. *(a)*

One ſlave aſſaulting another how puniſhed.

SECT. 3. *And be it enacted by the authority aforeſaid,* That if any Negro or Mulatto ſlave in this government, ſhall at any time, after the paſſing of this act, aſſault or beat any other Negro or Mulatto ſlave, and be convicted thereof by one credible witneſs, before two Juſtices of the Peace for the county where ſuch offence ſhall be committed, ſuch Negro or Mulatto ſlave ſo offending, and convicted as aforeſaid, ſhall be adjudged by the ſaid juſtices to be publicly whipt, with any number of laſhes not exceeding thirty nine, on his, her or their bare back, well laid on; and the maſter or owner of ſuch Negro or Mulatto ſlave, ſo convicted as aforeſaid, ſhall pay the coſts of ſuch conviction, to be

(a) This clauſe altered and ſupplied in chap. 145. b. ſects. 3. 4. 5. 6. paſſed Feb. 3, 1787.

be levied of his goods and chattels by warrant, under the hands and ſeals of the ſaid juſtices. CHAP. CLXXXVIII. 1767.

SECT. 4. *And be it enacted by the authority aforeſaid*, That an act of Aſſembly of this government, for the better regulation of ſervants and ſlaves, ſo far as the ſame extends to the manumitting ſlaves, is hereby repealed and declared to be null and void, to all intents and purpoſes whatſoever.

Paſſed October 31, 1767.

CHAP. CLXXXIX. a.

An ACT *for obliging the Sheriffs within this government, to give ſufficient ſureties for the faithful execution of their truſt.*—Repealed and ſupplied in chap. 178. b. paſſed June 11, 1788. 1767.

CHAP. CXC. a.

A Supplement to the act, intituled "An act for the relief of the poor."—Repealed and ſupplied in chap. 225. a. Paſſed March 29, 1775. 1767.

CHAP. CXCI. a.

An ACT *for the new appointment of Truſtees for the ſeveral General Loan Offices within this government.* 1769.

WHEREAS by an act of Aſſembly of this government, intituled, *An act for the new appointment of Truſtees for the ſeveral General Loan Offices within this government*, paſſed in the fourth year of the reign of his preſent Majeſty, Evan Rice, Thomas M'Kean, and Richard M'William, gentlemen, were conſtituted and appointed Truſtees of the General Preamble.

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tal Loan Office of New-Caſtle county, and John Vining and Cæſar Rodney, gentlemen, were conſtituted and appointed Truſtees of the General Loan Office of Kent county, and Jacob Kollock and John Rodney, gentlemen, were conſtituted and appointed Truſtees of the General Loan Office of the county of Suſſex. *And whereas* the time limited by the ſaid act for the continuance of the ſaid Truſtees in the exerciſe of their reſpective offices will expire at the end of this Seſſions of Aſſembly, whereby a new appointment of Truſtees to execute ſaid offices is become neceſſary;

SECTION 1. *BE it therefore enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That Evan Rice, Thomas M'Kean, and Richard M'William, gentlemen, are hereby nominated and appointed Truſtees of the General Loan Office, of the county of New-Caſtle; and John Vining and Cæſar Rodney, of Kent county, gentlemen, are hereby nominated and appointed Truſtees of the General Loan Office of the county of Kent; and Jacob Kollock *(a)* and John Rodney, of Suſſex county, gentlemen, are hereby nominated and appointed Truſtees of the General Loan Office of the county of Suſſex; which ſaid Truſtees ſhall and may have, hold and enjoy the ſame offices for and during the term of four years next after their entering into the execution of their reſpective truſts as aforeſaid, and from thence to the end of the next Seſſion of Aſſembly, or until a new nomination and appointment of Truſtees of the ſaid General Loan Office ſhall be made. *(b)*

New Truſtees appointed;

SECT. 2. *And* the ſaid Truſtees are hereby authoriſed and impowered, immediately after the end of this

their Power and duty.

(a) See chap. 209. a. wherein David Hall is appointed a Truſtee, in the place of Jacob Kollock then deceaſed.

(b) See chap. 230. a. ſect. 8. for a new appointment, then ſee ſect. 24. and the note (c) there.

this Seſſion of Aſſembly, to enter upon the execution of their truſt to which they are hereby appointed in their reſpective counties, and to receive, re-emit and exchange all bills of credit of this government, according to the directions of the act of Aſſembly, intituled, *An act for reprinting, exchanging and re-emitting Twenty Thouſand Pounds of the bills of credit of this government, to be let out on loan, and for ſtriking the further ſum of Seven Thouſand Pounds in ſuch bills, and giving the ſame to his Majeſty's uſe, and for providing a fund for ſinking the ſame,* paſſed in the thirty-ſecond year of the reign of his late Majeſty King George the Second, and to do and perform all other matters and things enjoined and required to be done and performed by the ſeveral Truſtees in their reſpective counties by an act of Aſſembly heretofore made or hereafter to be made during their continuance in the ſaid office, as fully and amply to all intents and purpoſes as the preſent or former Truſtees of the ſeveral Loan Offices within this government now can, or might, or would have done, by virtue of any acts of Aſſembly by which the ſaid Truſtees therein named were appointed, and as fully as if the ſaid Evan Rice, Thomas M'Kean and Richard M'William, for the county of New-Caſtle, John Vining and Cæſar Rodney, for the county of Kent, Jacob Kollock and John Rodney, for the county of Suſſex, had been nominated, conſtituted and appointed Truſtees of the reſpective General Loan Offices within this government in the bodies of the ſaid acts of Aſſembly.

But before they enter upon the execution of their truſt ſhall give bond, &c;

SECT. 3. *Provided always*, That before any of the Truſtees hereby nominated and appointed, or ſuch as ſhall be hereafter appointed Truſtees, ſhall enter upon the execution of their truſt, or of any part thereof, they ſhall enter into bond with good ſecurity for the ſums delivered into their hands reſpectively; *That is to ſay*, Each and every of the Truſtees of the Loan Office of New-Caſtle county to George Read and George Monro, of New-Caſtle county, gentlemen, or the ſurvivor of them, their executors and adminiſtrators, in the penal ſum of Ten Thouſand Pounds; and each and every of the Truſtees of Kent county to John Caton and Charles Ridgeley, of Kent county, gentlemen, or the ſurvivor of them, their executors

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executors and adminiſtrators, in the penal ſum of Six Thouſand Pounds; and each and every of the Truſtees of Suſſex county to David Hall and Jacob White, of Suſſex county, gentlemen, or the ſurvivor of them, their executors and adminiſtrators, in the ſum of Four Thouſand Pounds; who are hereby nominated and appointed Truſtees and Agents for the public for that end and purpoſe, conditioned for the due and faithful execution of their truſt and performance of all things required of them by this act, with further condition to deliver up to their ſucceſſors in the ſaid truſt the mortgage deeds, bonds and warrants of attorney, plate, bills of credit, and other money remaining in the ſaid offices, or when they ſhall be removed from their truſt, and ſhall take the oath or affirmation enjoined by the laws of this government to be taken by the Truſtees of the Loan Offices within this government, for the due performance of their reſpective truſts as aforeſaid, before ſome Juſtice of the Peace.

and ſhall take an oath or affirmation, &c.

SECT. 4. *And* if any of the above Truſtees ſhall happen to die, or be removed for any cauſe whatſoever, it ſhall and may be lawful to and for the General Aſſembly of this government, ſo often as need may require, to nominate and appoint ſome other fit perſon or perſons in the place and ſtead of ſuch Truſtee or Truſtees ſo dead or removed as aforeſaid, who ſhall, upon entering into the ſame bond, and taking ſuch oath or affirmation as is before mentioned, have the ſame power and authority, as if he or they had been nominated and appointed by this act.

And in caſe of any of their deaths, &c. others ſhall be appointed.

Paſſed June 16, 1769.

CHAP.

CHAP. CXCII. a.

An ACT *for extending an act, intituled,* An act to prevent ſwine running at large without rings and yokes in certain parts of New-Caſtle county, within this government, *to a certain part of Appoquinimink hundred, in the county aforeſaid.*

WHEREAS by an act of Aſſembly, paſſed in the twentieth year of the reign of his late Majeſty George the ſecond, intituled, *An act to prevent ſwine running at large, without rings and yokes, in certain parts of New-Caſtle county, within this government,* (a) it is provided, that no ſwine ſhall run at large (unleſs ſufficiently ringed, to prevent them from rooting, and yoked to prevent them from creeping or breaking through fences,) on any of the improved lands, meadows or marſhes of the inhabitants of New-Caſtle county aforeſaid, except in the ſeveral hundreds of Pencader and Appoquinimink. Preamble.

SECTION 2. *And whereas,* Since the making of the ſame act, great quantities of marſh within the ſaid hundred of Appoquinimink have been embanked and conſiderably improved, and when completed, will be of great benefit as well to the inhabitants of the ſame hundred as to the owners thereof: But foraſmuch as ſuch improvements already have been and hereafter may be much injured and impeded by herds of ſwine, without rings and yokes, running at large over the ſame, and the owners greatly diſcouraged from going on with theſe improvements; to prevent which damages and inconveniencies for the future, and for the ſecurity and encouragement of the owners, as well of the ſaid marſhes as of the meadows and improved lands lying to the eaſtward of the upper King's road running through Appoquinimink hundred aforeſaid, it is prayed to be enacted,

SECT. 3. *And be it enacted by the honorable John Penn,*

(a) Chap. 113. a. 20 Geo. II.—See after chap. 226. a, 14 Geo. III. the ſaid original act extended to Pencader hundred.

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Penn, eſq. by and with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietaries of the ſaid counties and province, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That from and after the firſt day of January, which will be in the year of our Lord One Thouſand Seven Hundred and Seventy, the ſaid recited act, and every clauſe, matter and thing therein contained ſhall extend, and be deemed, conſtrued and taken to extend to that part of Appoquinimink hundred lying to the eaſtward of the upper King's road leading through New-Caſtle county aforeſaid from Church-branch at the head of Appoquinimink Creek to Duck Creek, any thing contained in the ſaid recited act of Aſſembly to the contrary notwithſtanding.

All Swine are to be ringed and yoked that run at large to the eaſtward of the upper King's road in Appoquinimink hundred.

Paſſed June 16, 1769.

CHAP. CXCIII. a.

1769. *An* ACT *for aiding the diſcontinuance of the proceſs of the Supreme Court in the county of New-Caſtle, and for appointing other days for holding the ſaid court within this government.*

Preamble. WHEREAS the proceſs and proceedings in the Supreme Court for the county of New-Caſtle, in this government, are now diſcontinued, and put without day by occaſion of the non-coming of the juſtices thereof at the days appointed by law for holding the ſaid courts within the ſaid county.

SECTION 2. *And whereas* The days appointed by law *(a)* for holding the Supreme Courts within the ſeveral counties of this government are found by experience

(a) See before in chap. 173. a. ſect. 2.

perience to be improper times for holding the ſaid courts,

SECT. 3. *Be it therefore enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That every indictment, preſentment, action, ſuit, plea, proceſs, or other matter whatſoever, that were depending in the Supreme Court within the county of New-Caſtle aforeſaid, and are now become diſcontinued, abated and put without day by reaſon of the non-coming of the juſtices thereof as aforeſaid, ſhall be, and are hereby revived and continued, and ſhall and may be heard, tried and determined, before the juſtices of the ſaid court for the time being, on the days and times, and at the places herein after appointed and directed, in as full and ample manner to all intents and purpoſes whatſoever as they might or could have been if ſuch ſuit, action or other matter, had not been determined by the means aforeſaid.

All cauſes and matters diſcontinued in the Supreme Court for the county of New-Caſtle by reaſon of the non-coming of the juſtices ſhall be revived, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid,* That, from and after the publication of this act, the Supreme Courts for this government ſhall be held twice in every year; *That is to ſay,* At New-Caſtle, for the ſaid county of New-Caſtle, on the fourteenth day of October, and on the fifteenth day of April; and at Dover, for the county of Kent, on the ſeventh day of October, and on the twenty-ſecond day of April; and at Lewes, for the county of Suſſex, on the Friday next after the General Quarter Seſſions of the Peace there in November, and on the twenty-eight day of April: And if any of the days hereby appointed for holding the ſaid Supreme Courts in the months of October and April ſhould happen to be on Sunday, then on the next day following the ſaid appointed days. *(b)*

The days on which ſaid Courts ſhall be held in future.

SECT.

(b) For ſubſequent alterations of the days for holding this court in the ſeveral counties, ſee chap. 5. b. paſſed February 22, 1777—chap. 19. c. paſſed June 14, 1793—and chap. 61. c. paſſed February 7, 1794.

CHAP. CXCIII. 1769.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That all acts of Aſſembly of this government heretofore made, and the ſupplements thereto, ſo far as the ſame relate to days and times for holding the ſaid Supreme Courts, and every clauſe therein contained concerning the ſame be and are hereby repealed, annulled and made void.

Repeal of former acts as far as they relate to the days of holding ſaid courts.

Paſſed June 16, 1769.

CHAP. CXCIV. a.

1769. *An* ACT *for amending an act, intituled*, An act for the relief of inſolvent debtors within this government.

Preamble. WHEREAS the act of Aſſembly of this government, intituled, *An act for the relief of inſolvent debtors within this government*, paſſed in the thirteenth year of his late Majeſty's reign, is, by experience, found deficient, and not to anſwer all the good ends and purpoſes thereby intended, in providing againſt poor perſons being arreſted and impriſoned within the ſame, who oftentimes become immediately chargeable to the county where they are ſo impriſoned: (a) For remedy whereof,

SECTION. 1. *BE it enacted by the honorable John Penn eſq. with his Majeſty's royal approbation, Lieutenant Governor, and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietaries of the ſaid government and province, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That after the publication of this act, if any poor perſon ſhall be impriſoned for debt, or in any civil ſuit, within any of the counties of this government, it ſhall and may be lawful to and for ſuch perſon

Any poor perſon impriſoned in any civil ſuit may apply to the court out of which the proceſs iſſued for relief.

(a) For this ſee chap. 76. 2. ſect. 22. 13 Geo. II.

perſon or perſons ſo impriſoned, by petition, to apply to the Juſtices of the reſpective Courts of Common Pleas where he or ſhe ſhall be ſo impriſoned, in the term next after his or her confinement, or in any ſubſequent term, ſetting forth his or her condition, and containing a juſt and true ſtate of his or her affairs; whereupon the ſaid court are hereby impowered to examine into the allegations ſet forth in the ſaid petition, by ſuch ways and means as to them ſhall ſeem moſt likely for diſcovering the truth thereof; and after ſuch examination, if it ſhall appear to the ſaid court that the ſaid petitioner hath not eſtate ſufficient to maintain him or herſelf in priſon, and his or her family, and that they are likely to become chargeable to the hundred or county whereof he or ſhe is an inhabitant, that in ſuch caſe, the court in their diſcretion may and ſhall direct and order the creditor or creditors, at whoſe ſuit the ſaid petitioner is arreſted and impriſoned, forthwith to enter into a recognizance in the name of the Treaſurer of the ſaid county or of the Overſeers of the Poor of the hundred likely to become charged as aforeſaid, with one good and ſufficient ſurety at the leaſt, to indemnify ſuch hundred or county of and from all coſts and charges that may ariſe by reaſon of ſuch impriſonment, either for the maintenance or by the ſickneſs of the perſon ſo impriſoned, or of his or her family; and the ſaid recognizance ſhall be taken by the Prothonotary of the court aforeſaid.

which after hearing the party, &c. may order the plaintiff to enter into a recognizance with one ſurety at leaſt to indemnify the hundred or county, &c.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That upon the refuſal or neglect of ſuch creditor or creditors complying therewith within twenty days next after ſuch order, and producing a certificate thereof under the hand of the ſaid Prothonotary (who is hereby required and enjoined upon requeſt to give the ſame gratis) to the Sheriff or Gaoler of the county where ſuch perſon ſhall be impriſoned, then and in ſuch caſe the ſaid Sheriff or Gaoler may and ſhall releaſe, diſcharge and ſet at liberty, ſuch priſoner, he or ſhe firſt filing common bail in all and every action or actions depending againſt him or her.

and upon his refuſal or neglect to do the ſame within twenty days after, the Sheriff or Gaoler ſhall diſcharge ſuch priſoner upon his filing common bail.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That if any action or ſuit ſhall be commenced againſt any perſon or perſons for any thing

CHAP. CXCIV. 1769.

done in purſuance of this act, the defendant or defendants in any ſuch action or ſuit may be plead the general iſſue, and give this act and the ſpecial matter in evidence at any trial to be had thereupon, and that the ſame was done in purſuance and by the authority of this act; and if it ſhall appear ſo to have been done, the jury ſhall find for the defendant or defendants; and if the plaintiff ſhall be nonſuited, or diſcontinue his action, after the defendant or defendants ſhall have appeared; or if judgment ſhall be given upon any verdict or demurrer againſt the plaintiff, the defendant or defendants may and ſhall recover treble coſts; and have the like remedy for the ſame, as any defendant or defendants hath or have in any other caſes by law.

If Sheriff or other perſon is ſued for complying with the duty required of him by this act, he may plead the general iſſue, and if judgment paſs for him he ſhall recover treble coſts.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all and every clauſe and clauſes in the act of Aſſembly aforeſaid, *(b)* ſo far as the ſame relate to the requiring, directing and ordering the officer, who grants a writ againſt any poor perſon, to take ſecurity of the perſon or perſons applying for the ſame, before the ſame is granted, is hereby repealed and made void.

SECT. 5. *Provided always*, That all and every other part of the ſaid act of Aſſembly for the relief of inſolvent debtors within this government, and the ſupplement thereto, paſſed in the twenty-fourth year of his late Majeſty's reign, *(c)* ſhall be and continue in full force, ſave only thoſe parts which by this preſent act are altered and amended.

Paſſed June 16, 1769.

(b) Chap. 76. a. 13 Geo. II.

(c) Chap. 118. a. 24 Geo. II.

CHAP.

CHAP. CXCV. a.

CHAP. CXCV.

1769.

A further additional Supplementary ACT *to the act, intituled,* An act for the better regulation of the roads in New-Caſtle county. *(a)*

WHEREAS part of the King's road laid out and confirmed by the Juſtices of the Supreme Court for this government, beginning at the bridge erected over Whiteclay Creek, near Finney-terre, in Whiteclay Creek hundred, in the county of New-Caſtle to Chriſtiana bridge, in the ſame hundred, hath been found to be upon bad ground, and likely to prove very expenſive to the inhabitants of the ſaid hundred to make, and keep in good order and repair. *And whereas* There is ground very ſuitable for a road within a few perches of the place where the preſent road is eſtabliſhed, Preamble.

SECTION 2. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietaries of the ſaid counties and province, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That the King's road from the bridge over Whiteclay Creek aforeſaid, to the bridge over Chriſtiana Creek, ſhall be opened, and is hereby declared to be laid out, eſtabliſhed and confirmed, upon the courſes and diſtances following; *That is to ſay,* Beginning at Whiteclay Creek bridge aforeſaid, and running from thence ſouth eleven degrees eaſt one hundred and fifty-ſeven perches, thence ſouth ſeventeen degrees weſt four hundred and thirty-five perches 'till it interſects the King's road aforeſaid as heretofore confirmed and now opened, then along the ſaid confirmed

How the King's road ſhall be opened from Whiteclay Creek bridge to Chriſtiana bridge.

(a) For this ſee chap. 180. a. Anno 1762. And for a ſupplement thereto, ſee chap. 184. a. And for another ſupplement ſee after chap. 211. a. paſſed June 13, 1772.

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confirmed road ſouth eight and an half degrees weſt three hundred and twenty perches to the meeting-houſe on the hill above the village of Chriſtiana bridge, then along the ſame confirmed road ſouth twenty-five and one quarter degrees eaſt thirty-ſix perches, then ſouth fifty degrees eaſt thirty-three perches to the bridge over Chriſtiana Creek aforeſaid.

SECT. 3. *And be it enacted by the authority aforeſaid*, That that part of the King's road leading from the ſaid Whiteclay Creek bridge to Chriſtiana bridge aforeſaid, as heretofore laid out and confirmed, and hereby altered, ſhall be null and void, any law of this government to the contrary in anywiſe notwithſtanding.

Paſſed June 16, 1769.

CHAP. CXCVI. a.

1769, *An* ACT *concerning wills made by perſons reſiding out of this government.*

Preamble.

WHEREAS many perſons reſiding out of this government have been ſeiſed or poſſeſſed of lands, tenements and hereditaments within this government, and having diſpoſed thereof by their laſt wills, have died, but by reaſon of the ſaid wills being lodged in ſome office out of this government, perſons claiming under the ſame cannot produce them in any court of law or equity within this government, to the great injury of the perſons ſo claiming; For the remedying whereof for the future,

SECTION 1. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor, and Commander in Chief, of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietaries of the counties and province aforeſaid, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties*

Wills and teſtaments duly made and proved out of this government ſhall be good and available in law to paſs lands, &c. in the ſame.

counties in General Aſſembly met, and by the authority of the ſame, That any will in writing wherein or whereby any lands, tenements or hereditaments within this government, have been, or ſhall be, given or deviſed, which has been, or ſhall hereafter be, proved in the Chancery in England, Scotland or Ireland, or in the Court of Chancery in any colony, plantation or iſland in America belonging to his Majeſty, or which has been, or hereafter ſhall be, proved in the Huſting's or Mayor's Court, in London, or in ſome Manor Court, or before ſuch perſon or perſons as hath, had, have, or ſhall have, power or authority at the time of proving ſuch will in England, Scotland or Ireland, or in any colony, plantation or iſland aforeſaid, to take probates of wills, ſhall be good and available in law for the granting, conveying and aſſuring of the lands, tenements or hereditaments thereby given or deviſed, as well as of the goods and chattels thereby bequeathed; and that the copies of every ſuch will, and of the bill, anſwer, depoſitions and decree, where the ſame hath been or ſhall be proved in any Court of Chancery, or of every ſuch will, the probate whereof, where the ſame hath been or ſhall be proved in any other court, or in any office as aforeſaid, being tranſmitted hither and produced under the Public or Common Seal of the court or office where the ſame probate hath been or ſhall be taken or granted reſpectively, or under the Great Seal of the kingdom, colony, plantation or iſland within which ſuch will hath been or ſhall be proved (other than copies of ſuch wills and probates as ſhall appear to be annulled, diſapproved or revoked) ſhall be judged and deemed, and are hereby declared and enacted, to be matter of record, and to be good evidence in any Court of Law or Equity within this government to prove the gift or deviſe therein or thereby made; And that all ſuch probates granted out of this government being produced here, under the ſeals of the courts or offices granting the ſame, ſhall be as ſufficient to enable the executors by themſelves or Attornies to bring their actions in any court within this government as if the ſame probates or letters teſtamentary were granted here and produced under the ſeal of any of the Regiſter's offices within this government.

And copies of ſuch wills, &c. duly authenticated ſhall be matter of record and may be given in evidence in any court.

SECT.

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But wills for lands muſt be in writing ſigned by the party, or by his direction, and ſubſcribed by two witneſſes, &c. if made ſince May 1ſt. 1754.

SECT. 2. *Provided neverthelefs, and be it enacted by the authority aforeſaid*, That nothing herein contained ſhall be deemed, or conſtrued to confirm or eſtabliſh any gift or deviſe of lands, tenements or hereditaments within this government in a will made ſince the firſt day of May in the year of our Lord One Thouſand Seven Hundred and Fifty-four by any perſon reſiding out of this government, unleſs ſuch will ſhall be in writing and ſigned by the party ſo deviſing the ſame, or by ſome other perſon in his or her preſence, and his or her expreſs directions, and ſhall be atteſted and ſubſcribed in the preſence of the ſaid deviſor by two or more credible witneſſes. *(a)*

And ſuch copies ſhall be recorded in the county where given in evidence, and there ſafely kept by the Regiſter.*

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the copies of every ſuch will and probates, ſo produced and given in evidence, ſhall be recorded in the Regiſter's office of the county where the ſame ſhall be ſo given in evidence at the expence of the perſon who produces the ſame, and the fees for recording ſhall be recovered in the ſame manner as other fees due to the ſaid office are by law recoverable, and the ſaid copies ſhall not be returned by the court wherein the ſame are ſo produced and given in evidence to the perſon producing them, but the ſaid court ſhall order the ſame to be recorded as aforeſaid, and after to be ſafely kept by the ſaid Regiſter; and if any of the wills (whereof copies or probates ſhall be ſo as aforeſaid produced or given in evidence) ſhall afterwards appear to be diſproved or annulled before any judge or officer having cognizance thereof, or ſhall happen to be revoked, or altered, by the teſtator either by a latter will or codicil, in writing, duly proved as aforeſaid, that then, and in every ſuch caſe, it ſhall and may be lawful for the party aggrieved, or his or their heirs, executors, adminiſtrators or aſſigns, to have their action for what ſhall be taken or detained from them by occaſion of ſuch wills, or have their writ or writs of error for reverſing the judicial proceedings thereupon, as the caſe ſhall require, any thing

(a) See the act concerning written and nuncupative wills to which this hath reference, chap. 145. a. paſſed October 30, 1753.

thing herein contained to the contrary notwithſtanding. CHAP. CXCVI. 1769.

Paſſed June 16, 1769.

CHAP. CXCVII. a.

An ACT *for the more eaſy and ſpeedy recovery of ſmall debts.* Repealed and ſupplied in Feb. 1792. chap. 250. b. 1769.

CHAP. CXCVIII. a.

A Supplement to an act, intituled, An act for regulating fences within this government. 1770.

Preamble.

WHEREAS the act, intituled, *An act for regulating fences within this government*, paſſed in the thirteenth year of the reign of his late Majeſty George the Second, *(a)* hath made no proviſion for making ditches, hedges or ſtone walls, incloſing lands, lawful fences; For remedying whereof, and for the encouraging of ſuch ſpecies of incloſures,

SECTION. 1. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That all ditches or drains having a poſt and rail fence, or a worm fence well ſtaked and ridered at leaſt five feet of a perpendicular height from the top of the upper rail or rider to the bottom of ſuch ditch or drain, or a hedge of thorn cloſe

What ſhall be deemed a lawful fence.

(a) Chap. 70, a. 13 Geo. II.

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cloſe ſet of the height aforeſaid erected or planted within two feet from the edge of ſuch ditch or drain, and all ſtone walls of the height of four feet and an half from the ground, or otherwiſe three feet high, with a fence thereon of rails well ſtaked and ridered, at leaſt one foot and an half above the ſaid wall, ſhall be deemed, taken and held as and for ſufficient and lawful fences, to all intents and purpoſes whatſoever.

Owners of horſes, &c. treſpaſſing on ſuch incloſures to make good the damage.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That if any horſes, kine, ſheep, hogs, goats or any kind of cattle, ſhall break into any perſon's incloſure [the ſame being found to be of the height and ſufficiency aforeſaid by the perſons appointed or hereafter to be appointed viewers, according to the directions of the ſaid act] the owner of ſuch horſes, kine, ſheep, hogs, goats, or any kind of cattle, ſhall be liable to make ſatisfaction for the damage done to the owner of ſuch incloſure, in ſuch ſort, and to be levied in ſuch manner, as in the aforeſaid act is mentioned and ordered in other caſes.

A diviſion fence to be maintained by both parties.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That where any perſon or perſons have already incloſed, or ſhall hereafter incloſe any land, with a fence and ditch, or hedge and ditch, of the height and ſufficiency aforeſaid, and ſo declared and determined by the fence-viewers, and the ſame fence and ditch, or hedge and ditch, or any part thereof, are or may become a partition between them and any other perſon or perſons having improved or incloſed lands adjoining the ſame, in ſuch caſe the charge of ſuch diviſion fence and ditch, or hedge and ditch, ſo far as is improved or incloſed on both ſides, ſhall be equally borne, repaired and maintained by both parties, and may be aſcertained, recovered and paid in ſuch manner and form as by the aforeſaid act of Aſſembly is directed concerning other fences: *(b)* And that where any ſtone wall of the height and ſufficiency aforeſaid is, or ſhall be erected, on the line between any two perſons having lands improved or incloſed

(b) Said chap. 70. ſect. 3.

cloſed adjoining thereto, by, or at, the expence of any one of them, the perſon or perſons having ſo erected ſuch wall may and ſhall apply to the fence-viewers of the hundred where the ſame is ſo erected, who are thereupon authorized, impowered and required, to fix and determine the charge or expence of making a good and ſufficient fence of poſts and rails of the length of ſuch wall, and of maintaining and repairing the ſame annually thereafter, according to the beſt of their ſkill and judgment, of which they ſhall without delay give notice to the parties concerned, and the owner or poſſeſſor of the land improved or incloſed and adjoining ſuch partition wall ſhall be liable to pay to the perſon or perſons erecting the ſame the moiety of the ſum which a fence of poſts and rails as aforeſaid would in ſuch their opinion coſt, to be levied in manner aforeſaid; and that the moiety of the annual expence of ſupporting ſuch a fence, according to the eſtimate made by them as aforeſaid, ſhall be a charge upon the perſon or perſons holding the lands adjoining ſuch wall, during the continuance of the ſame, unleſs he, ſhe or they ſhall pay to the perſon or perſons who erected ſuch wall, or to ſuch perſon or perſons who may hereafter purchaſe or inherit the ſame, a moiety of the value of the ſame, to be determined by the viewers for the time being.

Diviſion-drains in marſhes to be cut and fences to be made thereon at the joint expence of the owners.

SECT. 4. *Provided always, and be it further enacted by the authority aforeſaid*, That on all diviſion-lines between owners or poſſeſſors of meadow, marſh or cripple, incloſed by a bank or dyke from the waters of any river, creek or run, where any owner or poſſeſſor ſhall think proper to improve his ſaid meadow, marſh or cripple, and to have the ſame divided from the meadow, marſh or cripple adjoining, that the owner or poſſeſſor of the adjacent meadow, marſh or cripple [be the ſame improved or unimproved] ſhall, and he is hereby ordered, to join with the adjacent owner or poſſeſſor in cutting a drain or ditch of the width of eight feet, and the depth of two feet and an half or upwards, and making a poſt and rail fence, or a worm fence well ſtaked and ridered, at leaſt two feet high from the top of upper rail or rider to the ground, and within one foot from the edge of ſuch

CHAP. CXCVIII. 1770.

drain or ditch, ſo far as the ſame is a line between them, at a moiety of the expence and labour neceſſary in cutting and making the ſame; and it is further ordered and directed, That all ſuch diviſion-drains or ditches ſhall be well and ſuffi ciently ſcoured and cleanſed, at leaſt once in every year, and the fence erected thereon in manner aforeſaid repaired as often as neceſſary by the owners or poſſeſſors of the meadow, marſh and cripple adjoining both ſides of the ſame, and ſhall be deemed, taken and held as and for lawful fences; and if any owner or poſſeſſor of the ſame ſhall refuſe or neglect to unite in cutting ſuch drain or ditch, and making ſuch fence, or hereafter to ſcour and cleanſe his proportionable part of the ſame drain or ditch, and to repair his ſhare of the ſame fence to be made as aforeſaid; it ſhall and may be lawful for the owner or poſſeſſor of the adjoining meadow, marſh or cripple, to cut ſuch drain or ditch, and make ſuch fence on the ſame line as far as it divides the property of the ſaid owners or poſſeſſors, and afterwards once in every year to ſcour, cleanſe and repair the ſame; and to exhibit an account of the expence and labour in doing thereof to the fence-viewers of the hundred for their approbation; and if the ſaid fence-viewers ſhall think the works aforeſaid ſufficient for the intended purpoſes, according to the directions of this act, they ſhall forthwith proceed to aſcertain the real coſt and value of the ſame under their hands, and deliver the ſame to the aforeſaid owner or poſſeſſor, who having firſt proved the ſame by oath or affirmation, is hereby authorized and impowered after ten days from the time of producing the ſame account to, and demanding payment from, the owner or poſſeſſor of ſuch adjacent meadow, marſh or cripple, if the ſame ſhall not be diſcharged or ſatisfied, to recover the ſame with lawful intereſt and double coſts, by a ſummons or warrant [as the caſe may require] from under the hand and ſeal of any Juſtice of the Peace, if the debt amounts to Five Pounds or under, otherwiſe by action of debt or general *indebitatus aſſumpſit* for ſo much money paid, laid out and expended for the uſe of ſuch owner or poſſeſſor, in any County Court of Common Pleas with-

and to be deemed lawful fences.

Manner of proceeding againſt delinquent owners.

in

in this government; before which juſtice, or any court and jury, the account aforeſaid, allowed and proved as aforeſaid, ſhall be ſufficient evidence. And if any perſon poſſeſſing ſuch lands, meadows, marſh and cripple, or either of them, be a guardian to any minor, he ſhall be allowed the ſum or ſums ſo expended or paid in his account with his ward; and if a leſſee or renter, he may deduct the ſame out of his annual rent, unleſs otherwiſe ſtipulated by contract.

This act not to extend to or alter any act making proviſion for regulating diviſion-drains or fences,

SECT. 5. *Provided alſo*, That this act ſhall not extend to, or be conſtrued to repeal or alter any act of Aſſembly of this government for the imbanking and improving of any meadow, marſh or cripple, within the ſame, whereby any other proviſion is made for the regulation of diviſion-drains, canals, or fences, any thing herein contained to the contrary notwithſtanding.

SECT. 6. *Provided alſo*, That all and every other part of the ſaid act for regulating fences within this government ſhall be and continue in full force, ſave only thoſe parts which by this act are altered and ſupplied.

To be in force three years.

SECT. 7. *Provided alſo*, That this act ſhall continue in force for the ſpace of three years, and from thence to the end of the next Seſſion of Aſſembly and no longer. *(c)*

Paſſed March 24, 1770.

CHAP. CXCIX. a.

1770.

An ACT *for the making divers copies of records duly authenticated under the Great Seal of the province of New-York, and other copies, public records; and for rendering real eſtates within this government more ſecure.*

Preamble.

WHEREAS theſe counties, before the twenty-fourth day of Auguſt in the year of our Lord One

(c) Made perpetual by chap. 215. a. 12 Geo. III.

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One Thouſand Six Hundred and Eighty-two, were under the juriſdiction and government of the province of New-York, and the lands within the ſame were granted by the Governor and Commander in Chief of the ſaid province, and many of the orders of the Governors, minutes of Council, warrants, ſurveys, patents and deeds for the ſame, were filed and recorded in the Secretary's Office there.

SECTION 2. *And whereas* The ſaid original papers are entered in the books and records in the ſaid office promiſcuouſly with other original papers for and relating to lands, tenements and hereditaments, lying within that province, ſo that the ſaid original papers and records cannot be obtained from thence.

SECT. 3. *And whereas* The Aſſembly of this government, conſidering the grievous hardſhips many of the inhabitants thereof have borne in going near two hundred miles for copies of ſuch original papers and records, and that the fees for the ſame were not aſcertained by law, have, at a conſiderable expence, procured as many of the orders of Governors, minutes of Council, ſurvey's, patents, deeds, wills, and original papers, there filed and recorded, to be tranſcribed under the direction of Thomas M'Kean, eſquire, one of the Members of ſaid Aſſembly, as in any wiſe related to lands, tenements and hereditaments, within theſe counties, and could there be found by him, which, being compared with the originals, authenticated by the oaths of Goldſbrow Banyar, eſq. deputy Secretary of the ſaid province, and Rudolphus Ritzema, Attorney at Law, taken before his excellency ſir Henry Moore, Baronet, Captain General and Governor in Chief in and over the ſaid province of New-York, and the territories depending thereon in America, Chancellor and Vice Admiral of the ſame, and under the Great Seal of the ſaid province, wrote on two hundred and eighty-one ſides or pages, and certified and ſigned by the ſaid Thomas M'Kean, are bound up in one book in folio.

SECT. 4. *And whereas* It appeared to the ſaid Aſſembly, that the records of divers tranſactions and proceedings in the ſeveral courts within theſe counties, and of warrants, ſurveys, patents, deeds and wills

wills, regiſtered and recorded in the public offices before the year One Thouſand Seven Hundred, relating to lands, tenements and hereditaments within the ſame, were, through time and for want of proper care, greatly defaced, and muſt very ſoon become unintelligible, to the great injury of the inhabitants thereof, they have alſo at a great expence cauſed the ſame to be tranſcribed; it is prayed that it may be enacted;

SECT. 5. *And be it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietaries of the ſaid government and province, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid government in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act the aforeſaid book, certified and authenticated as aforeſaid under the Great Seal of the province of New-York, ſhall be and is hereby declared and made, a public record of this government to all intents and purpoſes whatſoever, and that the ſame ſhall be lodged in the Office of the Maſter of the Rolls in the town of New-Caſtle, and there kept ſafe with the other records in the ſame. *(a)*

Copies of records at New-York under Great Seal, &c. eſtabliſhed as originals.

The book to be kept in the Rolls Office at New-Caſtle.

SECT. 6. *And be it further enacted by the authority aforeſaid,* That the following books, remaining in the ſeveral offices in theſe counties, *to wit*, one book in folio, in the Prothonotary's Office for the county of New-Caſtle, marked *A*, commencing the tenth day of October, One Thouſand Six Hundred and Seventy-ſix, and ending the twenty-firſt day of November, One Thouſand Six Hundred and Ninety-nine, and wrote on five hundred and thirty ſides or pages, containing entries of orders, grants, ſurveys, actions and acknowledgments of deeds, *&c.* for lands in the ſaid county of New-Caſtle; and one other book, in folio, remaining

Books containing copies of records in the ſeveral public offices of this government declared public records.

(a) See chap. 45. c. ſect. 14. paſſed June 19, 1793. The place of depoſite changed to Dover.

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ing in the office for recording of deeds in the ſaid county of New-Caſtle, marked *A*, containing patents and deeds, beginning with a deed dated the thirtieth day of January, One Thouſand Six Hundred and Seventy-three, and ending with a patent dated the twenty-third day of May, One Thouſand Six Hundred and Eighty-four, and wrote on one hundred and eighty-five ſides or pages; And one other ſmall book, in folio, remaining in the Office of the Regiſter for the probate of wills and granting letters of adminiſtration for the ſaid county of New-Caſtle, marked *A*, beginning with a will dated the ſixteenth day of February, One Thouſand Six Hundred and Seventy-nine, and ending November the fourteenth, One Thouſand Six Hundred and Eighty-ſeven, and wrote on one hundred and five ſides or pages; [the ſaid books reſpectively being certified under the hands of Evan Rice and Thomas M'Kean, eſquires, a Committee of the ſaid Aſſembly appointed for that ſervice, to have been by them carefully compared with the original records, and to be true copies thereof:] And one other book, in folio, remaining in the office for recording of deeds in the county of Kent, marked *A*, beginning in June, One Thouſand Six Hundred and Eighty, and ending the twelfth day of December, One Thouſand Six Hundred and Ninety-four, wrote on fifty-ſeven ſides or pages; And one other book, in folio, remaining in the Office of the Regiſter for the probate of wills and granting letters of adminiſtration for the ſaid county of Kent, marked *A*, and beginning with letters of adminiſtration, dated the twenty-firſt day of December, One Thouſand Six Hundred and Eighty, and ending with ſuch letters, dated the fifth day of May, One Thouſand Seven Hundred and ten, and wrote on one hundred and ſeventy-three ſides or pages; [the ſaid books being tranſcribed under the direction of John Brinkle and Cæſar Rodney, eſquires, another Committee of ſaid Aſſembly appointed for that ſervice, and certified by the ſaid Cæſar Rodney, to have been carefully compared with the original records, and to be true copies thereof;] And one other book, in folio, remaining in the Office of the Prothonotary for the county of Suſſex, marked,

A,

A, and wrote on three hundred and thirty-five ſides or pages, containing entries of grants, ſurveys, acknowledgments of deeds, *&c.* for lands in the ſaid county of Suſſex; and one other book, in folio, remaining in the office for recording of deeds in the ſaid county of Suſſex, marked *B*, and wrote on one hundred and eighty one ſides or pages, [the ſaid books being reſpectively certified under the hands of David Hall and Jacob Kollock, junior, eſquires, another Committee of the ſaid Aſſembly appointed for that ſervice, to have been by them carefully compared with the original records, of which they are true copies;] from and after the publication of this act ſhall be, and are hereby declared and made public records to all intents and purpoſes whatſoever.

Copies from book of records brought from New-York good evidence;

SECT. 7. *And be it further enacted by the authority aforeſaid*, That all copies of the book authenticated as aforeſaid under the Great Seal of the province of New-York, or any particular therein contained, atteſted under the hand and ſeal of office of the officer, who now hath, or hereafter may have, the cuſtody thereof, may and ſhall be given in evidence, and conſidered as good and available in law, as any copies of the originals themſelves might or could be; and that the ſaid officer may and ſhall be allowed to take the like fees for the ſame; any law, cuſtom or uſage, to the contrary notwithſtanding.

and alſo of the other books, it being certified that the originals are loſt, &c.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That all copies of the other books, herein enumerated and particularly deſcribed, or of any particular therein contained, atteſted under the hand and ſeal of the proper officer, who now hath, or hereafter may have the cuſtody thereof [it being alſo by him certified that the original record of the ſame is loſt, defaced or unintelligible] may and ſhall be given in evidence, and conſidered as good and available in law, as any copies of the ſame original records might or could be; and that the ſaid officer may and ſhall be allowed to take the like fees for the ſame, any law, cuſtom or uſage to the contrary, in any wiſe, notwithſtanding.

Paſſed March 24, 1770.

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An ACT *directing the manner of ſuing out attachments within this government.*

Preamble.

WHEREAS an act of General Aſſembly of this government, paſſed in the twenty-fifth year of the reign of his late Majeſty George the Second, intituled, *An act for regulating attachments within this government,* (a) hath been found by experience to be defective, and not to anſwer all the good ends and purpoſes thereby propoſed;

SECTION 2. *BE it therefore enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That no writ of attachment ſhall iſſue out of any court within this government for any ſum to the amount of Forty Shillings and upwards againſt a reſidenter in the government, until two *non eſt inventus's* are ſucceſſively returned by the Sheriff or Coroner, upon two writs taken out againſt him, and ſuch proof made of the cauſe of action as the court ſhall think fit; or until the perſon or perſons requeſting ſuch writ of attachment, or ſome other credible perſon for him, her or them, ſhall upon oath or affirmation declare, that the ſaid defendant is juſtly indebted to the plaintiff in the ſum of Forty Shillings and upwards, and abſconded from the place of his or her uſual abode, or is gone out of the government with an intent to deceive and defraud his or her creditors, as it is believed, which oath or affirmation may be adminiſtred by the officer that grants the writ, or by any judge of the court out of which it may iſſue, and ſhall be filed in the court to which ſuch attachment is returnable; whereupon a writ of attachment ſhall be granted, directed to the Sheriff or Coroner, as the caſe may

Writ of attachment not to iſſue againſt a reſidenter, until, &c.

(a) Chap. 125. a. 25 Geo. II.

may require, commanding him to attach the defendant or defendants by all his, her, or their goods and chattels, rights and credits, lands and tenements, in whoſe hands or poſſeſſion ſoever the ſame may be found in his bailiwic or county, ſo that he, ſhe or they, be and appear at the next Court of Common Pleas, to be held, *&c.* to anſwer, *&c.* and that he ſummon the garniſhee or garniſhees to appear at the court to which the ſaid writ is returnable, then and there to declare what goods, chattels or effects, he, ſhe or they, hath or have in his, her or their hands.

Attachments to be ſerved by the Sheriff or Coroner;

SECT. 3. *And be it further enacted by the authority aforeſaid*, That all writs of attachment to be iſſued as aforeſaid, ſhall be ſerved by the Sheriff, or other officer of the proper county, as the caſe may require, who ſhall attach all the lands and tenements, goods and chattels, rights and credits of the defendant that he can find, and take into his hands all the ſaid goods and chattels, rights and credits, and cauſe the ſame to be appraiſed and inventoried, and be anſwerable for the ſame; but if he cannot come at the actual poſſeſſion of ſuch goods and chattels, rights and credits, he ſhall go to the perſon or perſons in whoſe hands or poſſeſſion the ſame are ſuppoſed to be lodged, and there declare, that he attacheth all the goods and chattels, rights and credits of the defendant in his, her or their hands, at the ſuit of the plaintiff, for the uſe of the creditors of the defendant, and that he doth ſummon the garniſhee or garniſhees to appear at the next court to which the ſaid writ is returnable, to declare on oath or affirmation, what goods, chattels or effects he, ſhe or they hath or have in his, her or their hands or poſſeſſion, belonging to the defendant; from and after which declaration, the goods, chattels or effects, ſo attached, ſhall be delivered to the Sheriff and be by him ſecured for the uſe of the creditors, unleſs the garniſhee or garniſhees will give ſecurity for the ſame; but if the defendant or defendants in the attachment, or ſome ſufficient perſon or perſons for him, her or them, will, at any time before judgment be entered, put in ſpecial bail to the plaintiff's action and to all other actions that his, her or their

may be diſſolved upon putting in ſpecial bail.

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creditor or creditors ſhall enter againſt him, her or them, to the value of the lands and tenements, goods and chattels, rights and credits of the defendant ſo attached, and the coſts of ſuit, then the garniſhees and the lands, goods, chattels and effects of the defendant, ſhall thereupon be immediately diſcharged.

No ſecond writ of attachment to iſſue againſt a reſidenter, unleſs, &c.

SECT. 4. *Provided always, and be it further enacted,* That no ſecond writ of attachment ſhall iſſue againſt a reſidenter out of any court within this government, unleſs the firſt attachment ſhall happen not to be executed, or otherwiſe ſhall be diſſolved by the court, or diſcontinued by the plaintiff, with the conſent of the majority of the defendant's creditors, and that if the perſon or perſons in whoſe name or names any ſuch writ of attachment may be taken out againſt a reſidenter ſhall happen to die before a final end of the proceedings thereon, the ſame ſhall not abate by reaſon of ſuch dying, but it ſhall and may be lawful for the court to order a ſuggeſtion of the death of ſuch plaintiff or plaintiffs to be entered of record, and ſubſtitute the name of any other of the creditors, conſenting thereto, in his or their ſtead.

Sheriff, &c. to make return into court, &c.

SECT. 5. *And be it further enacted,* That the Sheriff or Coroner, as the caſe may require, ſhall return into court a particular account, as well of all the lands and tenements, as of the goods, chattels and effects, rights and credits of the defendant by him attached, and the appraiſed value of the goods, chattels and effects, together with the name or names of ſuch perſon or perſons as he ſhall ſummon as garniſhee or garniſhees,

Periſhable goods, &c. may be ſold by order of court, &c.

and if any of the goods, chattels or effects, ſo attached, are of a periſhable nature, or ſuch as will create any expence in the keeping of them, the court, or in the vacation, three Juſtices of the Court of Common Pleas of the county, may and ſhall order the ſaid officer, after reaſonable public notice given, to ſell them *(b)* and retain the money in his hands, or deliver the ſame into court there to remain, until judgment ſhall be obtained againſt the defendant in the attachment.

SECT.

(b) A ſimilar proviſion in caſe of goods, &c. taken in execution, if of a periſhable nature.—See after in chap. 204, a. ſect. 35.

Proceedings againſt the garniſhee, &c.

SECT. 6. *And be it further enacted*, That if the garniſhee or garniſhees, ſummoned as aforeſaid, ſhall fail or neglect to appear and declare upon oath or affirmation what goods, chattels or effects, rights or credits, of the defendant, he, ſhe or they had in his, her or their hands, cuſtody or poſſeſſion, at the time of the attachment laid, or at any time after, an attachment or attachments of contempt ſhall iſſue out of the ſaid court againſt ſuch garniſhee or garniſhees to compel him, her or them to appear: And if the garniſhee or garniſhees do appear, and at the requeſt of the plaintiff, or any other creditor, ſhall declare on his, her or their oath or affirmation, that he, ſhe or they, had no money, goods, chattels, rights, credits or effects, of the defendant in his, her or their hands, cuſtody or poſſeſſion, at the time of the attachment laid, or at any time after, then ſuch garniſhee or garniſhees ſhall be diſcharged, but if the plaintiff in the attachment, or any other creditor or creditors of the defendant, ſhall require the garniſhee or garniſhees to the plead that he, ſhe or they, had no money, goods, chattels, rights, credits or effects, of the defendant in his, her or their hands, cuſtody or poſſeſſion, at the time of laying the attachment, or at any time after, then ſuch garniſhee or garniſhees ſhall not be admitted to make oath or affirmation as aforeſaid, but ſhall be obliged to plead ſuch plea, and the plaintiff, or any other creditor or creditors as aforeſaid, may take iſſue thereon and proceed to trial. And if it ſhall appear to the jury on the trial of ſuch iſſue, that the garniſhee or garniſhees had any money, goods, chattels and effects, of the defendant in his, her or their hands, cuſtody or poſſeſſion, they ſhall find a verdict for the plaintiff, or ſuch other creditor or creditors, and aſſeſs damages to the value of ſuch money, goods, chattels and effects, with coſts of ſuit; whereupon judgment ſhall be entered againſt the garniſhee or garniſhees, and the plaintiff, or ſuch other creditor or creditors, ſhall at his, her or their election have an execution againſt ſuch garniſhee or garniſhees, his, her or their bodies, goods and chattels, lands and tenements, as for his, her or their proper debt or debts; and the money levied thereon, ſhall be diſtributed among

all

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all the creditors of the defendant, in manner and form as is herein after directed.

Proceedings where garniſhee is not an inhabitant or is about to depart, &c.

SECT. 7. *And whereas* It frequently happens, that the perſons or garniſhees in whoſe hands the defendant's goods, chattels or effects are attached reſide in another county or government, or are likely to depart this government, or remove out of the county where the attachment is ſerved, and the plaintiff loſes the benefit of his writ; for remedying which inconveniency, *Be it further enacted by the authority aforeſaid*, That if any plaintiff in any writ of attachment proſecuted within this government as aforeſaid, or any creditor claiming any benefit by or under ſuch writ of attachment, ſhall, upon oath or affirmation declare, that the garniſhee is not an inhabitant of this government, or of the county where the attachment is depending; or in caſe the garniſhee is an inhabitant, that he or ſhe verily believes ſuch garniſhee is about to depart this government, or the county where ſuch attachment is depending; and that he or ſhe does alſo believe that ſuch garniſhee hath ſome of the defendant's goods, chattels or effects in his or her hands or poſſeſſion, or is indebted to the defendant in any ſum of money, although the ſame ſhall happen at that time not to be due, then and in ſuch caſe, it ſhall and may be lawful for the plaintiff or creditor to take a writ againſt the ſaid garniſhee or garniſhees, and oblige him, her or them, to find ſureties to appear at court, and make anſwer as by this act is required, and further to abide the judgment of the court.

Three freeholders to be appointed to audit accounts, and adjuſt demands.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That the juſtices of the reſpective courts to which the ſaid writ of attachment is returnable, as ſoon as the officer hath returned the ſame, ſhall and may and are hereby authorized, impowered and required, to nominate and appoint three honeſt and diſcreet freeholders of the county to audit the accounts of all the defendant's creditors [except ſuch of them as have taken out warrants of attachment from any Juſtice of the Peace within this government for debts under Forty Shillings, and cauſed the goods and chattels of the defendant to be attached thereby, who are utterly barred and excluded hereby from claiming or receiving

receiving any benefit by virtue of this act] and to adjuſt and aſcertain the demands, as well of the plaintiff or plaintiffs in the attachment, as of all the reſt of ſuch creditors of the defendant, and make a true and juſt report of their proceedings therein to the ſaid juſtices at the court next after ſuch appointment, who ſhall have power to control and correct any errors that ſhall appear to them in ſuch report, either in the allowance of any debts or demands againſt the defendant, which by law ought not to be allowed, or in the calculations of the dividends to be made of the defendant's eſtate and effects amongſt the creditors, or otherwiſe howſoever.

Auditors to give notice of their meeting;

SECT. 9. *Provided always*, That the Auditors after ſuch appointment ſhall give notice to the creditors of the times and places of their meeting, by affixing advertiſements at the Court Houſe, and other public places in the reſpective county, at leaſt thirty days before ſuch time; and all and every creditor and creditors neglecting or refuſing to attend in perſon, or by attorney, according to ſuch notice, and then and there to make proof of his, her or their debt or debts or other demands, in manner as by this act is directed, ſhall be debarred from receiving any ſhare or dividend on the diſtribution herein after ſpecified. And, for the avoiding of frauds, *Be it enacted*, That the Auditors ſo to be appointed ſhall and may examine upon oath or affirmation, or by any other ways or means as to them ſhall ſeem meet, all or any of the creditors of the defendant for the finding out and diſcovery of the truth and certainty of the ſeveral debts due and owing to ſuch creditor or creditors, and if any perſon or perſons, either by ſubornation, unlawful procurement, or means of any other, or by his own act, conſent or agreement, ſhall wilfully and corruptly commit any manner of wilful perjury before ſuch Auditors, the party or parties ſo offending, being duly convicted thereof, ſhall incur ſuch forfeiture and receive and ſuffer ſuch pains and puniſhments as are limited by the law and ſtatutes of that part of Great Britain called England concerning perjury.

and may examine on oath, &c.

Judgment to be given the third court, unleſs, &c.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That judgment ſhall be given for the plaintiff

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tiff in the attachment the third court after iſſuing of the writ unleſs the defendant ſhall enter ſpecial bail as aforeſaid; whereupon the juſtices of the court ſhall immediately make an order of court for the Sheriff, to proceed to the ſale of the defendant's goods and chattels, lands and tenements, in ſuch manner and form as is directed by the laws of this government in other caſes, and to deliver the money ariſing upon ſuch ſales [all coſts and charges being firſt deducted] into the hands of the Auditors aforeſaid, who on the receipt thereof are hereby required and directed to calculate and ſettle the ſhares, proportions and dividends, due to the ſeveral creditors of the defendant [except as before excepted] and to diſtribute and pay to the ſaid creditors, their executors, adminiſtrators or aſſigns reſpectively, their rateable or proportionable parts of the ſaid money, according to the quantity of their reſpective debts, allowing to the perſon or perſons, ſuing out ſuch writ of attachment, and proſecuting the ſame to condemnation and diſtribution, a double ſhare, proportion and dividend of the ſaid money, ſo as the ſame do not exceed his, her or their debt.

Auditors to take an oath, &c.

SECT. 11. *Provided always*, That every Auditor to be appointed as aforeſaid, ſhall, before he enter upon the execution of his office, take an oath or affirmation in open court, or before any Juſtice of the Peace of the reſpective county, that he will well and faithfully diſcharge his duty in the ſaid office according to the beſt of his ſkill and knowledge.

Sales made purſuant to this act ſhall be good, &c.

SECT. 12. *And be it further enacted*, That all ſales of the goods and chattels, lands and tenements of the defendant in any attachment, to be made purſuant to this act, ſhall be good and available in law againſt the ſaid defendant, his heirs, executors and aſſigns; and if any action ſhall be brought againſt any officer, or other perſon having any power or authority to do or perform any matter by virtue of this act, he may plead the general iſſue and give this act in evidence in his juſtification.

SECT. 13. *Provided always*, That the overplus of the defendant's or debtor's eſtate [if any be] remaining after all his, her or their debts, and the lawful coſts

coſts and charges are paid and deducted, be returned to ſuch defendant or defendants, his, her or their executors, adminiſtrators or aſſigns.

Creditors not fully paid may have remedy for the reſidue of their debts, &c.

SECT. 14. *And be it further enacted by the authority aforeſaid*, That if the creditor or creditors of any ſuch debtor or defendant be not fully ſatisfied, or otherwiſe contented, for his, her or their debts and duties by the ways and means before ſpecified and declared, that then the ſaid creditor or creditors, and every of them, ſhall and may have their remedy for the recovery and levying of the reſidue of their ſaid debts or duties againſt the debtor or debtors in the like manner and form as they ſhould and might have had before the making of this act; and that the ſaid creditor or creditors and every of them ſhall be only barred and excluded by virtue of this act of and for every ſuch part and portion of the ſaid debts and duties as ſhall be paid, ſatisfied, diſtributed or delivered unto him, her or them, by order of the Auditors aforeſaid, and of no more portion or parcel thereof, any thing herein ſpecified that may be taken or conſtrued to the contrary notwithſtanding.

Sureties for perſons abſenting to have a ſhare of the effects, &c.

SECT. 15. *And be it further enacted by the authority aforeſaid*, That all and every perſon or perſons, who are or ſhall become ſurety or ſureties for the debt or debts of any perſon or perſons abſenting themſelves, or reſiding out of this government as aforeſaid, either by recognizance, bond, bill, aſſumption or otherwiſe, and ſhall make proof thereof in manner aforeſaid to the ſatisfaction of the Auditors to be appointed as aforeſaid, ſhall come in for an equal or diſtributive ſhare or ſhares of the eſtate of ſuch perſon or perſons with the reſt of his, her or their creditors, in like manner as if the debts for which ſuch ſurety or ſureties are or ſhall be bound as aforeſaid were originally due to them, except as before is excepted.

Writ of attachment not iſſue againſt a non-reſident until, &c.

SECT. 16. *And be it enacted by the authority aforeſaid*, That no writ of attachment ſhall iſſue out of any court within this government, for any ſum to the amount of Forty Shillings and upwards, againſt perſons reſiding out of this government, until one *non eſt Inventus* is returned by the Sheriff or Coroner upon a writ taken out againſt ſuch non-reſident, and delivered

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vered to ſuch Sheriff or Coroner at leaſt ten days before the return thereof, and ſuch proof made of the cauſe of action as the court ſhall think fit, or until the perſon or perſons requeſting the ſaid writ of attachment, or ſome other credible perſon for him, her or them, ſhall upon oath or affirmation declare, that the ſaid defendant is juſtly indebted to the plaintiff in the ſum of Forty Shillings and upwards, and avoids coming into this government leſt he or ſhe be taken to anſwer his or her juſt debts, as it is believed, which oath or affirmation ſhall and may be taken and filed in the manner as is herein before directed in the caſe of reſidenters; whereupon a writ of attachment ſhall be granted to each and every ſuch perſon requiring the ſame, directed to the Sheriff or Coroner, as the caſe may require, and ſhall be by him executed, and like proceedings had againſt the defendant and defendants therein, and the garniſhees ſummoned thereon, as herein before is alſo directed, without the ſubſequent ſteps of appointing Auditors and making diſtribution; but that every plaintiff in an attachment againſt a non-reſident ſhall have the benefit of his own diſcovery, and after judgment had, the court ſhall award execution to be made by *fieri facias*, *capias ad ſatisfaciendum*, or otherwiſe, as on other judgments.

Creditors to enter into recognizance, &c.

SECT. 17. *Provided always, and be it further enacted by the authority aforeſaid*, That before any creditor or creditors ſhall receive his, her or their dividend or proportionable ſhare of the debtor's eſtate, he, ſhe or they ſhall be obliged to enter into a recognizance to the debtor or debtors, with ſurety or ſureties, before the Prothonotary of the court where ſuch judgment ſhall be obtained, that if ſuch debtor or debtors ſhall within a year and a day next following come into court either in perſon or by attorney, and diſprove or avoid his, her or their debt, or debts, or any part thereof, that then he, ſhe or they will make reſtitution of the ſaid money by him, her or them received, or of ſo much thereof as ſhall be diſproved; and for each recognizance Eighteen-pence ſhall be paid, and no more. Which ſaid attachments, judgments or executions may be pleaded by, and ſhall be a ſufficient

ent bar for, the garnishees in any action brought by the said defendants against them for the same.

Sect. 18. *And be it enacted by the authority aforesaid*, That it shall and may be lawful for any person or persons, obtaining or having obtained judgment in any Court of Record, to take out an attachment thereon, as well as any other execution; in which attachment there shall be an order of summons, and the same proceeded on as above directed, without the previous or subsequent steps of one or two *non estis*, oath or affirmation, appointing Auditors, making distribution, or finding security as above; and the said attachment, condemnation or judgment thereon, shall be pleadable in bar by the garnishee as aforesaid, in any action against him at the instance of the defendant. *Provided always*, That no attachment shall issue, by virtue of this act upon any judgment whatsoever in the nature of an execution until the first day of September next, any thing herein contained to the contrary notwithstanding.

Attachment may be taken out after judgment in any court instead of other execution;

after the first of September, 1770.

Sect. 19. *Provided always, and be it enacted by the authority aforesaid*, That no writ of attachment, or any entry under such writ now depending in any court within this government, shall be discontinued or abated for or by reason of this act, but the Justices of the respective courts within this government shall proceed to trial and judgment, and awarding execution thereon, as if this act had never been made, any thing herein contained to the contrary notwithstanding.

Writs of attachment now depending not to abate by reason of this act.

Sect. 20. *And whereas* It often happens, that persons, who are indebted in considerable sums of money to the inhabitants of this government, remove themselves and their effects out of the same before the days of payment of their said debts, and the creditors, without all relief, except in a course of equity, which is both tedious and expensive; for the remedying which evil, and the better to secure the inhabitants of this government against such dishonest practices, *Be it enacted by the authority aforesaid*, That if any person be indebted to an inhabitant of this government in any sum of money exceeding Forty Shillings, and the day of payment is not then come, and the credi-

Proceedings in case debtors are about to remove before day of payment.

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tor, or ſome credible perſon for him or her, will, on oath or affirmation, declare, that the defendant or debtor is indebted to him or her in a ſum of money exceeding Forty Shillings, and that the day of payment is not then come, and that ſuch deponent or affirmant doth verily believe upon good grounds that the debtor is about to depart this government, and to remove his or her effects, and that ſuch debtor hath refuſed to give better ſecurity for the payment of the money when the ſame ſhall become due, it ſhall then be lawful for ſuch creditor or creditors, to take out a writ againſt ſuch debtor or debtors, and cauſe him, her or them to be arreſted, and the ſaid debtor or debtors, on his, her or their appearance in court, at the return of the writ, ſhall be obliged to give better ſecurity for ſuch debt or debts, if the court ſhall ſee cauſe on the hearing the allegations of the parties ſo to order it; in which caſe the defendant ſhall pay the coſts of ſuch ſuit; but if the court ſhall be of opinion, that there was not a ſufficient cauſe for demanding better ſecurity of the defendant or defendants, and for cauſing him, her or them to be arreſted, then judgment ſhall be given againſt the plaintiff or plaintiffs, who ſhall be adjudged to pay to the defendant or defendants ſuch coſts and charges as the court ſhall think fit to allow.

Former acts repealed.

SECT. 21. *And be it further enacted by the authority aforeſaid*, That all acts of Aſſembly of this government, heretofore made, ſo far as the ſame acts relate to attachments to the amount of Forty Shillings and upwards, ſhall be, and are hereby repealed, made null and void.

Paſſed March 24, 1770.

CHAP.

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An ACT *for repealing ſo much of an act of Aſſembly of this government, intituled, "An act for killing of ſquirrels in the counties of Kent and Suſſex," as relates to the county of Kent.* Reciting that the ſame act ſo far as it related to the ſaid county of Suſſex expired on the firſt day of January, 1765.

CHAP. CCII. a.

An ACT, *for amending an act, paſſed in the ſeventeenth year of the reign of his late Majeſty George the Second, intituled, "An act for the better relief of the poor of the county of New-Caſtle," and for extending the ſame to the counties of Kent and Suſſex; and for other purpoſes herein after mentioned.* Repealed in chap. 225. a. ſect. 31. paſſed March 29, 1775. 1770.

CHAP. CCIII. a.

An ACT *for the appointment of rangers, and regulation of ſtrays.* Temporary and expired, but re-enacted with ſome alterations. See chap. 130. b. paſſed February 2, 1786. 1770.

CHAP. CCIV. a.

An ACT *for regulating and eſtabliſhing fees.* 1770.

FOR preventing extortion and undue exaction of fees by the ſeveral officers and Attornies at law, and other perſons within this government, and to the end

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end that all fees may be reduced to a certainty, and eſtabliſhed, We, the Houſe of Repreſentatives of the ſaid government, do pray that it may be enacted,

SECTION 1. *AND be it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, under the honorable Thomas Penn and Richard Penn, eſquires, true and abſolute proprietors of the ſaid counties and province, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That the fees of the ſeveral officers, Attornies at law, and other perſons within this government, ſhall be as is herein aſcertained, limited and appointed, *viz.*

SECT. 2. To the Governor.
SECT. 3. Governor's Secretary.
SECT. 4. Proprietaries Secretary.
SECT. 5. Juſtices of the Supreme Court.
SECT. 6. Juſtices of the County Courts of Common Pleas.
SECT. 7. Juſtices of the Peace.
SECT. 8. Attorney General.
SECT. 9. Maſter of the Rolls and Recorder of Deeds.
SECT. 10. Sheriff.
SECT. 11. Clerk of the Supreme Court.
SECT. 12. Clerk of the Common Pleas.
SECT. 13. Regiſters in Chancery.
SECT. 14. Clerks of the Peace.
SECT. 15. Regiſters for the probate of wills.
SECT. 16. Juſtices for the trial of Negroes.
SECT. 17. Clerks of the Orphans Court.
SECT. 18. Attornies at Law.
SECT. 19. Notary and Tabellion Public.
SECT. 20. Clerk of the Aſſembly.
SECT. 21. Sergeant at Arms.
SECT. 22. Door-keeper.
SECT. 23. Naval-officer.
SECT. 24. Coroners.
SECT. 25. Cryers of the Courts.

SECT.

SECT. 26. Surveyors of land and chain carriers.

SECT. 27. Jurors. *(a)*

Provided always, That ſaid juror attends the whole term, unleſs excuſed by the court, and anſwers to his name when called upon by order of court. *Provided alſo*, That if any juror has any matter of fact at iſſue depending for trial at the ſame court, the ſame ſhall be a ſufficient cauſe of challenge to him, and he ſhall receive no reward for his attendance, nor be compellable to ſerve that term.

Proviſo relating to jurors.

SECT. 28. *And be it enacted by the authority aforeſaid*, That if any Grand or Petit Juror, legally ſummoned to appear at any County Court, ten days before holding ſuch court, ſhall neglect or refuſe to give his attendance accordingly, he may and ſhall be fined by the ſaid court any ſum not exceeding Thirty Shillings; *(b)* and if any juror, ſo ſummoned to attend the Supreme Court, or any Court of Oyer and Terminer and General Gaol Delivery for any county of this government, ſhall neglect or refuſe to give his attendance accordingly, ſuch juror may and ſhall be fined by the ſaid courts reſpectively any ſum not exceeding Forty Shillings; which ſaid fines ſhall be levied by the Sheriff by an order of the ſaid court, and afterwards paid to the Treaſurer of the county, for the uſe of the ſaid county, where ſuch juror inhabits, to be applied towards the public allowance to jurors.

Penalty on jurors for non-attendance.

SECT. 29. *And be it enacted by the authority aforeſaid*, That the Auditors or Referees, appointed by the conſent of parties under a rule of court to determine any matter in controverſy, ſhall have and receive for the report or award by them made, Five Shillings each; and if the buſineſs neceſſarily requires more time than one day, Two Shillings and Six-pence each for every day more. *(c)*

Auditors appointed by the courts.

SECT.

(a) The ſaid foregoing ſections with others herein after noted were altered, ſupplied and repealed firſt in chap. 191. b. paſſed February 3, 1789, and after in chap. 27. c. paſſed June 15, 1793.—chap. 42. c. paſſed June 19, 1793.—chap. 58. c. paſſed February 7, 1794, and chap. 104. c. paſſed February 9, 1796, ſee alſo chap. 194. b. ſects. 3, 4. paſſed February 3, 1789.

(b) See alſo chap. 48. a. 2 Geo. II.—chap. 94. a. 15 Geo. II. and chap. 8. c. ſects. 6, 7. paſſed Feb. 2, 1793.

(c) See a ſimilar proviſion in chap. 27. c. ſect. 28. paſſed June 15, 1793.

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made liable to a fine for neglect or refusal of the duty;

SECT. 30. *And* if the said Auditors or Referees [who are not privileged from serving on juries] being notified by either of the parties of the time and place of meeting, shall neglect or refuse to appear, and proceed to hear and determine the matters in controversy, such Auditor or Referee so neglecting or refusing, shall be fined by such court next after such neglect or refusal any sum not exceeding Thirty Shillings, unless excused by the said court; which fines shall be levied, paid and applied towards the public allowance to jurors as aforesaid.

to be sworn or affirmed before signing their report.

SECT. 31. *Provided always, and be it enacted by the authority aforesaid,* That each and every Auditor, before signing an award or report, shall be duly sworn or affirmed, by some judge of the court, faithfully and impartially to determine the matters in controversy according to the best of his skill and judgment; which oath or affirmation shall be certified by such judge on the said rule of court, *ex officio*, (d)

Appraisers.

SECT. 32. *And* that the two freeholders appointed by the Sheriffs or Registers for the probate of wills and granting letters of administration within the several counties of this government, for any goods or chattels, not exceeding Fifty Pounds, by them appraised or valued, shall have and receive Four-pence in the pound, and for all other sums above Fifty, and not exceeding One Hundred Pounds, Two-pence in the pound, and for all other sums One Penny in the pound, and no more. (e)

SECT. 33. Bailiffs fees.

SECT. 34. Fees to witnesses.—Altered and supplied in chap. 27. c. sect. 28. Anno 1793.—and in chap. 104. c. passed Feb. 9, 1796.

No sale of goods, &c. taken in execution until thirty days thereafter,

SECT. 35. *And be it further enacted by the authority aforesaid,* That no goods or chattels, taken in execution by any Sheriff or Coroner, shall be sold or disposed of, until thirty days after they are appraised, as aforesaid, to the end the party or parties concerned may,

(d) In chap. 89. b. passed Feb. 5, 1782. any one Justice of the Peace or Burgess of Wilmington is so authorised and required.

(e) Altered and supplied as to Appraisers appointed by the said Registers in said chap. 27. c. sect. 31. but no provision made for those appointed by Sheriffs.

may, if they think fit, relieve the ſame, by payment of the money due, or the amount of the ſum at which they were appraiſed, unleſs the ſaid goods or chattels are of a periſhable nature, or ſuch as will create a charge in the keeping; in which caſes, the plaintiff, or plaintiffs, or the ſaid Sheriff or Coroner, may apply to the court, or in the vacation, to any three juſtices of the ſaid court, for an order to ſell the ſame after reaſonable public notice given, and if obtained, to proceed accordingly. unleſs of a periſhable nature,

SECT. 36. Directs ſeals to be procured, *&c.* by every public officer, and eſtabliſhed the ſame as the ſeals of their ſaid offices reſpectively.

SECT. 37. Provides that ſucceſſors in office reimburſe their predeceſſors for ſaid ſeals on their delivery. Both of which were altered and ſupplied in chap. 131. b. paſſed Feb. 2, 1786; and further in chap. 5. c. ſects. 12, 13. paſſed Feb. 2, 1793.

SECT. 38. For the puniſhing of extortion by any of the officers or perſons before mentioned in taking more, greater or other fees than there limited and appointed. Firſt altered and ſupplied in chap. 191. b. ſect. 27. paſſed Feb. 3, 1789. Again in chap. 27. c. ſect. 35. paſſed June 15, 1793. See alſo chap. 58. c. ſect. 4. paſſed Feb. 7, 1794.

SECT. 39. *And be it further enacted by the authority aforeſaid*, That an act of Aſſembly, intituled, *An act for appraiſement of goods taken in execution*, *(f)* and one other act, intituled, *An act for regulating and eſtabliſhing fees*; *(g)* and all other laws or acts of Aſſembly heretofore made in this government for regulating and eſtabliſhing fees, *(h)* and every matter, clauſe and thing therein contained, ſo far as they relate to any officer or other perſon for any ſervice or ſervices herein mentioned, ſhall be, and are hereby declared to be repealed, made null and void; any thing in the ſaid laws, acts, or any of them to the contrary, notwithſtanding. Former laws repealed.

SECT.

(f) Chap. 47. a.

(g) Chap. 103. a.

(h) Chaps. 115. a. 135. a. 151. a.

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SECT. 40. *Provided alſo*, That all actions, proſecutions and ſuits, for the forfeitures and penalties incurred by virtue of this act, ſhall be brought and commenced within ſix months time after the offence or offences committed, and not afterwards.

Penalties for a breach of this act, to be ſued for in ſix months.

SECT. 41. *Provided alſo, and be it further enacted by the authority aforeſaid*, That this act ſhall commence, and be of full force and effect, from and after the firſt day of Auguſt next, and not before.

Commencement of this act.

Paſſed March 24, 1770.

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1770.

An ACT *obliging perſons returned and appointed for Conſtables, to ſerve accordingly, and for aſcertaining their fees.*

SECTION 1. BE *it enacted by the honorable John Penn eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame*, That from and after the publication of this act, all Conſtables of hundreds in the ſeveral counties of this government ſhall and are hereby commanded to return to the Juſtices of the Quarter Seſſions, to be holden in May annually for each reſpective county, *(a)* three good and ſufficient freeholders out of their reſpective diſtricts, that the juſtices aforeſaid may chooſe and nominate one out of every ſuch diſtrict as aforeſaid, to ſerve in the ſaid office for the enſuing

Conſtables to return three freeholders to Quarter Seſſions, who are to appoint one,

(a) In chap. 61. c. ſect. 6, paſſed February 7, 1794. "It is provided that all appointments to be made by the General Seſſions or Common Pleas that uſually were made by the ſaid courts in the months of February and May ſhall be made at the Spring Term of the ſaid courts, and that all appointments made as aforeſaid, by ſaid courts in the months of Auguſt and November ſhall be made at the Fall Term of the ſaid courts."

enſuing year; *(b)* and the Conſtables ſo nominated and appointed ſhall, before entering on their office, take the oath or affirmation, for faithfully executing the office of Conſtable, before ſome Juſtice of the Peace of the county.

Clerk of the Peace to certify the appointment and deliver it to Sheriff, who is to ſerve the party therewith.

SECT. 2. *And be it enacted by the authority aforeſaid*, That the Clerk of the Peace in every county ſhall, within three days after ſuch appointment, ſignify and deliver the ſame under his hand to the Sheriff of the ſaid county under the penalty of Five Pounds: And the ſaid Sheriff ſhall, within ten days after ſuch delivery, deliver the ſame to each perſon ſo appointed, or leave the ſame at his uſual place of reſidence, under the like penalty of Five Pounds: And every perſon ſo appointed, who ſhall not, within ſeven days after ſuch notice, take the oath or affirmation as aforeſaid, or provide ſome other ſufficient perſon, to be approved of by the two next Juſtices of the Peace in the county, to ſupply his place, and for whoſe conduct he ſhall be accountable, ſhall forfeit and pay the ſum of Five Pounds.

Quarter Seſſions authorized to appoint in ſome one Year an additional Conſtable when neceſſary.

SECT. 3. *And whereas*, from the increaſe of inhabitants in many of the hundreds within this government, a greater number of Conſtables is become neceſſary in thoſe hundreds than have heretofore been appointed, *Be it therefore enacted by the authority aforeſaid*, That the Juſtices of the Peace, in the ſeveral Courts of Quarter Seſſions within this government, are hereby authoriſed and impowered, in the May Seſſion in ſome one year hereafter, to nominate and appoint one other of the three freeholders, to be returned by the Conſtables for the time being as aforeſaid, to be a Conſtable for ſuch hundred where they ſhall adjudge an additional one neceſſary; and the perſon ſo appointed ſhall, within ſeven days after notice of ſuch appointment, under the hand of the Clerk of the Peace, to be ſerved upon him by the Sheriff as aforeſaid, qualify himſelf as before directed,

(b) See chap. 190. b. ſects. 5, 6, 7. paſſed February 3, 1789. and chap. 219. b. paſſed January 29, 1791, ſpecially limiting the number of Conſtables for each hundred in the reſpective counties of the ſtate, and the time and manner of appointment.

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under the penalty of Five Pounds, and ſhall at the next ſucceeding May Seſſions return to the juſtices three good and ſufficient freeholders out of his diſtrict, that the ſaid juſtices may nominate one to ſerve in his ſtead, to the end that an annual ſucceſſion of ſuch additional Conſtables may be kept up hereafter. *(c)*

In caſe of death removal, &c. three next Juſtices to appoint.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That when any perſon appointed a Conſtable aforeſaid ſhall die or remove out of the county, either before or after his qualification, or ſhall neglect or refuſe to qualify on his being appointed, then and in that caſe it ſhall and may be lawful for any three of the next Juſtices of the Peace in the county where ſuch death, removal, refuſal or neglect happens, and they are by this act required forthwith to appoint another ſufficient freeholder to be Conſtable in the hundred in his place; upon the certificate of which juſtices, the perſon ſo appointed, on the delivering the ſame to him, ſhall, within ſeven days as before limited, qualify himſelf, or provide a deputy as before directed, under the like penalty of Five Pounds.

Cryers of courts, Conſtables as heretofore.

SECT. 5. *Provided always*, That the Juſtices of the Quarter Seſſions for each reſpective county may, as heretofore, appoint the Cryers of the ſaid courts Conſtables, any thing herein before contained to the contrary in anywiſe notwithſtanding.

Perſons exempted unleſs others not to be found.

SECT. 6. *Provided alſo*, That no perſon above the age of ſixty years, or who hath heretofore ſerved in the ſaid office within any of the counties of this government, or provided an approved perſon to ſerve in his ſtead, or paid the ſum of Five Pounds in lieu of his ſervice, ſhall be obliged to ſerve in the ſame office without his own conſent, unleſs other ſufficient freeholders cannot be found within the ſaid hundred or diſtrict; and that no perſon being under the age of twenty-one years ſhall be capable of ſerving in that office. *And* if any Conſtable ſhall refuſe to execute any legal precept, directed to him by any Juſtice of the Peace, or be guilty of any breach of duty

Penalty for breach of duty.

or

(c) See the preceding note *(b)*

or neglect in his ſaid office, *(d)* and ſhall be convicted thereof in manner herein after directed, he ſhall forfeit any ſum not exceeding Five Pounds for ſuch offence.

Continuance in office.

SECT 7. *And be it enacted by the authority aforeſaid*, That the preſent Conſtables, and thoſe herein after appointed, ſhall continue in their ſaid office and do all the duties thereof, until the Conſtables returned and nominated to ſerve in their ſtead reſpectively ſhall be qualified, any thing herein contained to the contrary notwithſtanding.

Fines how recoverable

SECT. 8. *And be it enacted by the authority aforeſaid*, That all the fines impoſed by this act, together with the coſts, ſhall be recovered by diſtreſs and ſale of the offender's goods and chattels reſpectively, by warrant under the hands and ſeals of any three Juſtices of the Peace before whom the ſaid offender or offenders ſhall be convicted, and be paid to the Treaſurer of the county where the offence ſhall be committed, for the uſe of the ſaid county.

No Negro or Mulatto to be employed as a Whipper.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That no Negro or Mulatto ſhall be employed, by any Conſtable or other Officer within this government, to whip or inflict any corporal puniſhment on any white perſon or perſons in any caſe whatſoever.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That the fees of the ſeveral Conſtables within this government ſhall be as is herein after aſcertained, limited and appointed, *viz.*

FOR
- Serving every warrant, Nine-pence.
- travelling charges, One Penny per mile to and from the place of ſerving a warrant to the neareſt juſtice.
- ſerving a ſummons, from the place of ſervice to the place where the ſame is returnable, Nine pence, and mileage.
- ſummoning every witneſs, Nine-pence, and mileage, as above.

Ditto

(d) See chap. 259. b. ſect. 13. paſſed February 4. 1792. wherein it is provided, that Conſtables ſhall perform the duties theretofore aſſigned to Overſeers of the Poor.

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FOR Serving every execution againſt the body, One Shilling, and mileage.
every execution againſt goods and chattels, one Shilling and Six-pence, and mileage.
advertiſing, ſelling the ſame, and making return, One Shilling and Six-pence more. *(e)*

Sale of goods within what time.

Provided always, That no goods or chattels ſhall be ſold by virtue of any execution for a debt under Forty Shillings in leſs than ſix days after ſervice of the ſame.

FOR Serving every warrant of attachment in the hands of one garniſhee, One Shilling, and mileage.
every other garniſhee, Six-pence, beſides mileage.
whipping a criminal by order of the Juſtices, Four Shillings and Six-pence.
putting any perſon in the ſtocks, and attending, One Shilling.
conveying any perſon to the County Goal by mittimus, One Shilling, and mileage.— *(e)*

SECT. 11. *And be it further enacted by the authority aforeſaid*, That the ſeveral acts of Aſſembly of this government, obliging perſons returned and appointed for Conſtables to ſerve accordingly, ſhall be and are hereby repealed.

Repeal of former acts.

Paſſed November 3, 1770.

CHAP.

(e) The fees here preſcribed are altered and ſupplied in chap. 27, c. ſect. 33. paſſed June 15, 1793, and in ſect 34, ſo much of this act as relates to fees repealed. See alſo chap. 58, c. paſſed Feb. 7, 1794. A further proviſion of fees.

CHAP. CCVI. a.

CHAP. CCVI. 1772.

An ACT *for the better regulating the wharffs, public ſtreets, buildings, party walls and partition fences, in the Borough of Wilmington, in the county of New-Caſtle, upon Delaware, and for raiſing money on the inhabitants of the ſaid Borough for the public uſe and benefit thereof.*

WHEREAS the honourable George Thomas, eſq. Lieutenant Governor of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by Letters Patent, under the Great Seal of the ſaid government, bearing date the ſixteenth day of November, in the year of our Lord One Thouſand Seven Hundred and Thirty-nine, did erect the Town of Wilmington aforeſaid into a Borough, with privilege to the freeholders and inhabitants thereof annually to meet at the time and place in the ſaid letters patent mentioned, and to elect by ballot two able men, inhabitants of the ſaid borough, to be Burgeſſes, one to be High Conſtable, one to be Town Clerk, and ſix to be Aſſiſtants, for aſſiſting the Burgeſſes in the management of the affairs of the ſaid borough, and for keeping of the peace in the ſaid borough, and did thereby grant and declare that the Burgeſs firſt choſen or having the majority of votes ſhould be called Chief Burgeſs of the ſaid borough, and that the Burgeſſes ſo from time to time to be choſen, taking the qualifications in the ſaid letters patent directed and enjoined, were thereby authorized and impowered to be conſervators of the peace within the ſaid borough, with power by themſelves, and upon their own view, or in other lawful manner, to remove all nuiſances and incroachments on the ſtreets and highways within the borough aforeſaid, as they ſhould ſee occaſion, and alſo to arreſt, impriſon and puniſh rioters and other breakers of the peace, and to bind them, and all other offenders and perſons of evil fame, to the court of General Quarter Seſſions of the Peace of the ſaid county of New-Caſtle, there to be proceeded againſt Preamble.

as

CHAP. CCVI. 1772.

as occaſion might or ſhould require, and to do and perform all and ſingular other matters and things within the ſaid borough, as fully and effectually to all intents and purpoſes, as Juſtices of the Peace in their reſpective counties could or might lawfully do.

SECT. 2. *And whereas* divers inconveniencies, irregularities and controverſies, have heretofore ariſen and ſtill ſubſiſt in relation to the ſituation and direction of the public ſtreets, and about party walls, and laying the foundation of buildings in the aforeſaid borough of Wilmington; for the remedying whereof for the future, and for the better regulation, uniformity and gracefulneſs of the ſtreets and buildings in the ſame,

SECT. 3. *Be it enacted by the honorable Richard Penn, eſq. (a) with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That the extent of the ſaid Borough of Wilmington ſhall be comprized within the following boundaries, *to wit*, beginning at the mouth of Brandywine creek, where it emptieth itſelf into Chriſtiana river; thence extending by the ſame creek upwards by the ſeveral courſes thereof, to the old Fording place, acroſs the ſaid creek; thence along the old King's road leading from the ſaid fording place on the ſeveral courſes thereof to a corner ſtone oppoſite to Jonas Peterſon's houſe; thence on a parallel line with the ſtreets of the ſaid borough extending ſouthward and northward until the ſame line comes to the road leading from the ſaid borough towards the houſe of William Armſtrong, eſq. thence ſouth twenty-ſix degrees eaſt about one hundred and eighty-five perches to a white-oak tree ſtanding on a point of faſt land on the north-eaſt ſide of the faſt land drain in the marſh of Andrew Crips and wife; thence continuing

Boundaries of the Borough.

(a) Note. Richard Penn, eſq. began his government in October 1771, and continued until 1773.

continuing the ſame courſe to the channel of Chriſtiana river; thence extending by the ſame downwards on the ſeveral courſes thereof to the place of beginning; and that all the ſtreets and ſquares of ſaid borough ſhall be and remain as they are now laid out and regulated, agreeable to a map or plan of ſaid borough made from an actual re-ſurvey thereof, and ſigned, by order of the Burgeſſes and Aſſiſtants of ſaid borough, by John Stapler, eſq. Griffith Minſhall and William Poole, gentlemen, which is hereto annexed; notwithſtanding that the original conveyances for lots on each ſide of High-ſtreet, to the eaſtward of Market-ſtreet, and on the eaſt ſide of Market-ſtreet to the ſouthward of Third-ſtreet, generally include one perch of ſaid High and Market-ſtreets; and that the original conveyances for lots on each ſide of moſt of the other ſtreets in ſaid borough generally include eight feet of ſaid ſtreets reſpectively, which heretofore were laid off to widen them, and commonly paſſed under the name of pavements; the ſituations and directions of all which ſtreets, as repreſented in the aforeſaid map or plan, are aſcertained by red cedar poſts and ſtones fixed in the earth in the center or middle of ſaid ſtreets reſpectively, where they interſect one another.

The extent, ſituation and direction of the ſtreets, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That the ſeveral poſts and mark-ſtones, now ſet and fixed in the earth in the middle of the ſtreets as aforeſaid, as well as all ſuch other poſts and mark-ſtones as ſhall from time to time hereafter be ſo ſet and fixed in the earth by the Borough Surveyors or Regulators, ſhall, in all caſes and in all courts of law within this government, be deemed, taken, eſtabliſhed and allowed as land-marks.

Land-marks eſtabliſhed:

SECT. 5. *And* if any perſon or perſons ſhall, at any time hereafter, wilfully pluck up or remove any of the ſaid poſts or mark-ſtones, and ſhall be thereof convicted in the Court of Quarter Seſſions of the county of New-Caſtle, he or they ſhall ſeverally forfeit the ſum of Twenty Pounds, beſides the coſt of proſecution, to the uſe of the Burgeſſes and inhabitants of the ſaid borough, to be employed in and towards the repairing the ſtreets of the ſaid borough; and it ſhall

Penalty on removing them.

and

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and may be lawful for the ſaid Burgeſſes to reward the informer, out of the ſaid penalty to be incurred, according to their diſcretion, not exceeding a moiety thereof.

SECT. 6. *And*, in order that the ſaid ſtreets, and ſuch other ſtreets, lanes and alleys as ſhall be hereafter laid out, may be duly regulated, made, opened, amended and repaired, and irregularities and controverſies in relation to party-walls and laying the foundation of buildings in the ſaid borough may be prevented, *Be it enacted by the authority aforeſaid*, That the Burgeſſes and Aſſiſtants of the ſaid borough ſhall and may from time to time elect, nominate and appoint, three or more diſcreet and ſkilful perſons to be Surveyors or Regulators, who, upon application made to them, ſhall have full power and authority, and they are hereby required and directed, to regulate and lay out the proper gutters, channels and conduits, for carrying off the waters in the ſaid borough; and to enter upon the lands of any perſon or perſons in order to ſet out the foundation and regulate the walls to be built between party and party within the ſaid borough, as to the breadth or thickneſs thereof; which foundation ſhall be laid equally upon the lands of the perſons between whom ſuch party wall is to be made, and the firſt builder ſhall be reimburſed one moiety of the charge of ſuch party wall, or for ſo much thereof as the next builder ſhall have occaſion to make uſe of, before ſuch next builder ſhall anyways uſe or break into the ſaid wall; and that the charge or value thereof ſhall be ſet by the ſaid Regulators, or any two of them.

Burgeſſes and Aſſiſtants to appoint regulators.

Their authority and duty.

How party walls are to be erected, and the firſt builder reimburſed.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall begin, or lay, the foundation of any party wall, or other building as aforeſaid, before the ſame be viewed and directed by the ſaid Regulators, or ſome two of them or ſhall build contrary to ſuch directions, every ſuch perſon, as well employer as maſter-builder, ſhall forfeit and pay the ſum of Twenty Pounds each, beſide the coſts of proſecution, to be recovered in the name of the Burgeſſes and inhabitants of Wilmington, by bill, plaint or information, in any Court of Record within

Penalty on building without or contrary to the directions of the Regulators.

within this government, wherein no eſſoign, protection or wager of law ſhall be allowed, nor any more than one imparlance, and all ſuch forfeitures ſhall be paid to the Treaſurer of the ſaid borough for the time being, one moiety thereof for the uſe of the ſaid borough, and the other moiety for the proſecutor.

Perſons aggrieved by ſuch directions may appeal to the Burgeſſes and Aſſiſtants;

SECT. 8. *Provided always, and be it further enacted by the authority aforeſaid*, That if either of the parties, between whom any foundation or party wall is to be made, ſhall think himſelf aggrieved by the order or direction of the ſaid Regulators, he, ſhe or they, may appeal to the Burgeſſes and Aſſiſtants of the ſaid borough at their next meeting, who, upon deliberate hearing of both ſides, ſhall finally adjuſt and ſettle the ſame, without further or other appeal; and the coſts thereof ſhall be paid as the Burgeſſes and Aſſiſtants ſhall direct and order.

Wages of the Regulators.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That the Regulators or Surveyors, for their pains and trouble in and about the premiſes, ſhall be paid by the party or parties concerned in ſuch foundation, or erecting ſuch party wall or other building, the ſum of Three Shillings each, and no more.

Partition fences to be made and repaired at the equal coſts of the adjoining owners;

SECT. 10. *And be it further enacted by the authority aforeſaid*, That the Surveyors or Regulators, or any two of them, ſhall have full power to regulate all partition fences within the ſaid borough; and where the adjoining owners or poſſeſſors do improve or incloſe their lots, ſuch fences ſhall be made in the manner generally uſed, and kept in good repair at the equal coſts of the parties; ſo that the price for making the ſame exceed not Four Pounds for every hundred feet in length, and ſo in proportion for a greater or leſſer quantity, unleſs the owners or poſſeſſors, between whom ſuch fence ſhall be erected, do agree otherwiſe.

which are to be recovered before either of the Burgeſſes,

SECT. 11. *And be it further enacted by the authority aforeſaid*, That if either party, between whom ſuch partition fence is or ſhall be made, ſhall neglect or refuſe to pay his, her or their ſhare or proportion of the expence of ſuch partition fence, and of keeping the ſame afterwards in repair, that then the party, at whoſe coſt the ſame was made or ſo repaired, may recover the ſame before either of the Burgeſſes, as

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debts under Forty Shillings or Five Pounds are recovered before other Juſtices of the Peace by the laws of this government.

The manner of extending and laying out ſtreets;

SECT. 12. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for the freeholders, and perſons having a vote at the election, within the ſaid borough, from time to time, and as often as occaſion ſhall or may require, further to extend thoſe ſtreets laid down in the aforeſaid plan; and likewiſe to lay out all other neceſſary new ſtreet or ſtreets within the ſaid borough; *Provided always*, That no ſtreets ſhall be hereafter extended, or any new ſtreets laid out, but by virtue of, or purſuant to, an ordinance of the ſaid borough for that purpoſe made, by the general conſent of the freeholders and perſons aforeſaid in a General Town's-Meeting aſſembled.

and how the ground over which they are laid is to be valued and the owner thereof paid.

SECT. 13. *Provided alſo, and it is hereby enacted*, That before any of the ſaid ſtreets ſo extended or laid out ſhall be opened, the owner or owners of the ground over which the ſame ſhall be laid ſhall be paid or tendered the value of the ſaid ground, to be aſcertained by three impartial freeholders of the county of New-Caſtle, not inhabitants of the ſaid borough, or a majority of them, to be ſummoned by the Sheriff of the ſaid county for the time being, in purſuance of a warrant or precept under the hands and ſeals of the Burgeſſes, who are hereby authoriſed and required to grant the ſame, and to which the ſaid Sheriff is hereby ordered and required to pay due obedience; and the ſaid freeholders or any two of them, are to make and return their inquiſition or report in the premiſes, on their reſpective oaths or affirmations, to be adminiſtred by the ſaid Sheriff, to the ſaid Burgeſſes, who are to cauſe the ſame to be entered by the Town Clerk upon the books or minutes of the ſaid borough, and the ſum or ſums mentioned in ſuch inquiſition or report ſhall be aſſeſſed and raiſed, as other public monies are directed by this act, on the inhabitants and taxables within the ſame borough.

SECT. 14. *And be it further enacted by the authority aforeſaid*, That whenever it ſhall appear that any houſe,

or

or part of any houſe, pump, draw well or other valuable improvement, that cannot be removed, hath been erected or made by any perſon or perſons on land within the ſaid borough, that was the property of any other perſon or perſons, it ſhall and may be lawful to and for the owner or owners of the ſaid houſe ſo built, or of ſuch improvement made as aforeſaid, his, her or their heirs or guardians, or upon his, her or their neglect or refuſal, it ſhall and may be lawful to and for the owner or owners of the ſaid land ſo built or improved upon, his, her or their heirs or guardians, to apply by petition to any Court of Common Pleas to be held for the county of New-Caſtle, and if it ſhall appear to the ſaid court, upon the teſtimony of any two or more credible witneſſes, that the ſaid houſe was built, or ſuch improvement made as aforeſaid before the paſſing of this act, and that the walls of the ſaid houſe are of brick or ſtone, and that ſuch improvement cannot be removed without conſiderable loſs to the owner or owners thereof, the ſaid court, after notice given to the parties intereſted, if they can be found, ſhall then nominate and appoint five judicious diſintereſted freeholders, reſiding within the ſaid borough, to meet and view the premiſes, and calling before them the reſpective owners and claimers of the ſaid improvements or land, if they can be found, to enquire and aſſeſs ſuch damage and recompence as they ſhall judge fit to be awarded to the owner or owners of the land thus built or improved upon, and to aſcertain the quantity and boundsof the adjacent land which they the ſaid five freeholders, or any three of them, may adjudge neceſſary to accommodate the ſame houſes with light and yard room backwards, together with the value of the land ſo aſcertained; and to make report of their proceedings in the premiſes in writing, under their hands and ſeals, or under the hands and ſeals of any three of them, with a certificate of their qualification, to the next Court of Common Pleas, where it ſhall remain upon record, and ſhall forever transfer the property of the ſaid lands ſo valued to the owner or owners of the ſaid buildings and improvements in fee, and alſo ſhall create a debt upon the

The manner of proceeding when a houſe, &c. hath been erected on the land of another perſon.

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the eſtate of the owner or owners of the ſaid buildings for the ſaid determined value unto him or them or his and their heirs from whom the ſaid lands were ſo adjudged and taken. *And*, if the ſaid valuation money be not paid within ſix months next after any ſuch return ſhall be made, execution ſhall iſſue from the ſaid court for the ſame in like manner as upon judgments in the ſaid court, any law, cuſtom or uſage to the contrary in anywiſe notwithſtanding.

How certain meſſuages on Weſt-ſtreet are to be regulated.

SECT. 15. *But* forasmuch as the brick meſſuages and improvements now belonging to Captain John Lea, Eſther Jolly, widow, and Simon Johnſton, on the ſquare formed by Weſt-ſtreet, Paſture-ſtreet, Second-ſtreet and Third-ſtreet, and erected ſeveral years ſince on the ſaid Weſt-ſtreet, on that part of the ſaid ſquare adjoining unto Third-ſtreet, will be more affected and injured by the regulation in the plan herein before mentioned than any other buildings and improvements in the ſaid borough, as the fronts of the ſaid brick meſſuages under that regulation will ſtand three feet and more in and upon the ſaid Weſt-ſtreet, and the lots back of the ſame meſſuages inſtead of running to Paſture-ſtreet in a direction parallel with the gable walls of the ſaid meſſuages, will nearly croſs the lines of each other;

SECT. 16. *And whereas* the other part of the ſquare aforeſaid, next unto Second-ſtreet, is yet open and unimproved, therefore for the accommodation of the meſſuages aforeſaid, and for the more eaſy determining of all controverſies relating to the propriety in the lots now held as belonging to the ſame meſſuages; *It is hereby further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Juſtices of the Court of Common Pleas aforeſaid, upon the petition of the ſaid John Lea, Eſther Jolly and Simon Johnſton, or any of them, or any of their heirs or aſſigns, within one year after the publication of this act, and not after, and notice given to the owners of the open part of the ſquare aforeſaid, or guardians of minor owners, or ſuch of them as may be found, to nominate and appoint five judicious and diſintereſted freeholders as aforeſaid, to meet, view and aſcertain the bounds, as well of the ſeveral lots ſo built upon,

allowing

allowing them to extend from the back parts of their reſpective meſſuages by lines continued in the direction of the gable walls of the ſame meſſuages, to Paſture-ſtreet aforeſaid, as the two ſlips or ſmall parcels of land that will remain to the northward of the meſſuage of the ſaid John Lea, and to the ſouthward of the meſſuage of ſaid Simon Johnſton, by allowing the lots aforeſaid their ſaid direction to Paſture-ſtreet, and afterwards to value the recompence and ſatisfaction, that ſhall be made and given by the ſaid John Lea, his heirs and aſſigns, for the land ſo added to the northward of his meſſuage aforeſaid, and by the ſaid Simon Johnſton, his heirs and aſſigns, for the lands ſo added to the ſouthward of his meſſuage aforeſaid, and to make report as in the preceding clauſe is directed: Which report in that behalf to be made, ſhall bind all parties concerned therein, their heirs, executors, adminiſtrators or aſſigns, to the intent that the three ſeveral owners of the meſſuages aforeſaid may preſerve their reſpective lots as now improved: And the ſaid John Lea and Simon Johnſton, their heirs or aſſigns, paying to the Treaſurer for the time being of the ſaid borough the valuation monies for the parcels of land ſo to be added to their meſſuages ſeverally as aforeſaid, ſhall and may forever reſpectively hold and enjoy the ſame by virtue of this preſent act. And the owner or owners of the ſaid two ſlips or ſmall parcels of land to the northward of the meſſuage of the ſaid John Lea, and to the ſouthward of the meſſuage of the ſaid Simon Johnſton, ſhall reſpectively receive from the Treaſurer, for the time being, the ſeveral ſums of money to be paid by the ſaid John Lea and Simon Johnſton as aforeſaid; and the ſaid Treaſurer is hereby authorized and required to pay the ſame, after the ſame ſhall have been paid unto him as aforeſaid.

SECT. 17. *And whereas* ſeveral other proprietors of lots within the ſaid Borough of Wilmington may by the preſent regulation of the ſtreets have an addition of ground to their ſaid lots, for which they ought to pay, and others of the ſame proprietors may loſe ſome of the ground to them granted and conveyed, for which reaſonable ſatisfaction ought to be given, *Be it*

further

CHAP. CCVI. 1772.

By whom and in what manner thoſe who have loſt any ground by the late regulation are to be paid.

further enacted by the authority aforeſaid, That it ſhall and may be lawful to and for the Sheriff of the county of New-Caſtle, and he is hereby required, upon a warrant or warrants, precept or precepts, to be iſſued and directed to him for this purpoſe by the Burgeſſes of the ſaid borough [which warrants or precepts the ſaid Burgeſſes are hereby impowered, authoriſed and directed to iſſue within one year from and after the paſſing this act] to impanel and return a competent number of ſubſtantial and diſintereſted perſons qualified to ſerve on juries, not leſs than twelve nor more than twenty-four, whoſe names ſhall be wrote on ſeparate pieces of paper and put into a box, and out of ſuch names, ſo written as aforeſaid, a jury of ſix perſons ſhall be drawn by ſome perſon to be by the ſaid Burgeſſes appointed; which perſons ſo impanelled, ſummoned, returned and drawn, are hereby required to come and appear before the ſaid Burgeſſes at ſuch time and place as in ſuch warrant or warrants, precept or precepts, ſhall be directed or appointed, and to attend the ſaid Burgeſſes from day to day, 'till diſcharged by them; and that the ſaid jurors ſhall have the ſame allowance from the ſaid borough for every day they attend, as jurors have in other caſes attending the courts of law in this government; and the ſaid Burgeſſes are hereby authoriſed and impowered by precept or precepts to call before them all and every perſon and perſons whomſoever, who ſhall be thought proper or neceſſary to be examined as witneſſes before them, on their oaths or affirmations, concerning the premiſes: And the ſaid Burgeſſes, if they think fit, ſhall and may likewiſe authoriſe the ſaid jury to view the place or places in queſtion in ſuch manner as they ſhall direct; and the ſaid Burgeſſes ſhall have power to command ſuch jury, witneſſes and parties to attend, until all ſuch affairs for which they were ſummoned ſhall be concluded: And the ſaid jury upon their oaths or affirmations [which oaths and affirmations, as alſo to all witneſſes ſo called upon, the ſaid Burgeſſes are hereby impowered and required to adminiſter] ſhall enquire of the value of ſuch ground ſo added or diminiſhed by the regulation aforeſaid, and ſhall aſſeſs and award the ſum or ſums to be paid by every ſuch

perſon

perſon or perſons to whoſe lots any ground may be added by regulating the ſtreets as aforeſaid; and alſo the ſum or ſums to be paid to every ſuch perſon or perſons, whoſe ground ſhall be taken away and occupied by the ſaid ſtreets, or otherwiſe, by means of the ſaid regulation; and the ſaid Burgeſſes ſhall give judgment or judgments for ſuch ſum or ſums of money ſo to be aſſeſſed; which ſaid verdict, or verdicts, and the ſaid judgment, decree or determination thereupon [notice in writing being given to the perſon or perſons intereſted, at leaſt ſix days before the time of ſuch aſſeſſment, declaring the time and place of meeting of the ſaid Burgeſſes and jury, by leaving ſuch notice at the dwelling houſe of ſuch perſon or perſons, or at his, her or their uſual place or places of abode, or with ſome tenant or occupier of ſome of the ſaid lands intended to be valued and aſſeſſed, in caſe ſuch party cannot otherwiſe be found out to be ſerved with ſuch notice] ſhall be binding and concluſive to all intents and purpoſes whatſoever againſt all and every perſon and perſons whomſoever; and the ſaid verdicts, judgments and decrees, and all other proceedings of the ſaid Burgeſſes and jury, ſo to be made, given and pronounced as aforeſaid, ſhall be fairly written in the books of the ſaid borough, and ſigned by the Town Clerk for the time being.

How thoſe who have gained any ground thereby may obtain a title for the ſame.

SECT. 18. *And it is hereby further enacted and declared*, That all and every ſum and ſums of money ſo to be aſſeſſed and awarded to be paid by any perſon or perſons, who ſhall have any ground valued to them as aforeſaid, may and ſhall be recovered by execution to be iſſued for the ſame, together with the coſts of the ſaid execution, by either of the ſaid Burgeſſes, at the expiration of thirty days after the ſaid judgments or determinations ſhall be given, in the name of the Treaſurer, who is hereby impowered to recover and receive the ſame; and is hereby required to give a receipt or receipts for ſuch ſum or ſums, mentioning and ſpecifying for what premiſes, to ſuch perſon as ſhall pay the ſame; which receipts ſhall be entered by the Town Clerk in the public books, and the ſame receipts ſhall transfer the property of the ground ſo aſſeſſed to ſuch perſon or perſons in fee,

and

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and ſhall, or the entry thereof as aforeſaid, or a copy of ſuch entry, which ſhall be deemed and taken to be a record, be ſufficient evidence at all times to prove the title for him, her or them, their heirs or aſſigns, in the premiſes. And the perſon or perſons to whom any ſum or ſums of money ſhall be awarded for the injury they may ſuſtain as aforeſaid, may and ſhall demand and receive the ſame from the ſaid Treaſurer, who is hereby authoriſed and required to pay the ſame out of any monies in his hands; *Provided always*, That ſuch demand be made in one year after ſuch aſſeſſment or valuation.

Burgeſſes and Aſſiſtants to meet annually, and calculate what ſums ſhould be raiſed for public uſes.

SECT 19. *And be it further enacted by the authority aforeſaid*, That the Burgeſſes and Aſſiſtants of the ſaid borough for the time being, ſhall on the eighth day of October yearly [except that day ſhould happen on Sunday, and then on the next day following] meet together, and calculate the public debts and charges of the ſaid borough, and eſtimate and determine what ſum and ſums of money may be neceſſary to be raiſed on the perſons and eſtates of the freeholders and inhabitants of the ſaid borough, for repairing and regulating the public ſtreets and highways, and to and for ſuch other public uſes as the ſaid Burgeſſes and Aſſiſtants ſhall judge neceſſary for the year enſuing; which ſaid reſpective ſums, with the particular uſes whereunto they ſhall be agreed to be appropriated as aforeſaid, ſhall be entered in a book to be provided and kept for that purpoſe by the Town Clerk, which ſaid Burgeſſes, or one of them, ſhall, within five days after ſuch eſtimate, iſſue forth his or their precept, directed to the High Conſtable of the ſaid borough, requiring him to bring to the Aſſeſſor of the ſaid borough, within twenty days next after the date of ſuch precept, fair and true liſts in writing, upon oath or affirmation (which one of the ſaid Burgeſſes is hereby impowered and directed to adminiſter) of the names and ſurnames and eſtates of all perſons within the ſaid borough, without concealment, fear, malice, favour or affection, upon pain of forfeiture of any ſum not exceeding Five Pounds, to be levied as by this act is directed. And the ſaid High Conſtable ſhall have and receive from the

High Conſtable to deliver liſts of taxables to the Aſſeſſor.

the Treaſurer of the ſaid borough Two-pence per Pound out of the ſums to be collected from the perſons and eſtates by him returned for his care and trouble in executing and returning the ſaid precept in manner aforeſaid.

who is to be choſen yearly by the electors.

SECT. 20. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful to and for the freeholders and electors within the ſaid borough, at their annual election, to chooſe one ſubſtantial inhabitant of the ſaid borough to be Aſſeſſor of the ſeveral ſums of money ſo from time to time agreed to be raiſed, which Aſſeſſor, ſo to be appointed, ſhall, within ſix weeks next after ſuch liſts returned to him as aforeſaid, lay a juſt rate or aſſeſſment upon himſelf, and all other perſons and eſtates within the borough aforeſaid, to and for the uſes aforeſaid; but before ſuch Aſſeſſor ſhall take upon himſelf the ſaid ſervice and duty, he ſhall be qualified before one of the Burgeſſes of the ſaid borough by taking the following oath or affirmation.

Qualification of the Aſſeſſor.

I. A. B. will well and truly lay or cauſe the rates and ſums of money, by virtue of this act to be impoſed or raiſed, duly and equally to be aſſeſſed and laid, according to the beſt of my ſkill and knowledge; and I will ſpare no perſon for favour or affection, or grieve any for hatred or ill will.

No aſſeſſment to exceed one Shilling in the Pound.

SECT. 21. *Provided always,* That no ſuch aſſeſſment or aſſeſſments to be made in any one year ſhall exceed the value of One Shilling in the Pound.

SECT. 22. *Provided alſo,* That thoſe who are not ratable or liable to be taxed for the relief of the poor ſhall not be taxed or aſſeſſed by this act.

High Conſtable appointed Collector, who is to publiſh the aſſeſſments and the day of appeal.

SECT. 23. *And be it further enacted by the authority aforeſaid,* That the ſaid Aſſeſſor ſhall, after the aſſeſſments made as aforeſaid, cauſe fair duplicates of them to be drawn, one part thereof to be delivered to the Burgeſſes, and the other part thereof to the High Conſtable of the ſaid borough, who is hereby appointed Collector of the ſaid aſſeſſments from time to time; *(a)* which Burgeſſes and two or more of the Aſ-

(a) See chap. 123. b. paſſed June 4, 1785, authoriſing the Burgeſſes and Aſſiſtants to appoint a Collector of the ſaid aſſeſſments on the eighth of October annually, except, &c. and to take ſecurity from him for the payment of the ſums aſſeſſed in his duplicate.

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siſtants may and ſhall ſign an order on the ſaid duplicate, or annexed thereunto, requiring him forthwith to ſet up and publiſh at each market houſe in the ſaid borough true copies in writing of ſuch duplicate, together with notice of the day and place of appeal, which ſhall be appointed by the ſaid Burgeſſes and Aſſiſtants within twenty days after the ſaid aſſeſſments are ſo publiſhed; at which day of appeal, if any perſon or perſons ſhall find him, her or themſelves aggrieved with any of the ſaid aſſeſſments, ſuppoſing the ſame to be unequal, he, ſhe, or they, may appeal to the Burgeſſes and Aſſiſtants, who are hereby required to meet on the ſaid day of appeal, where the Aſſeſſor ſhall attend: Whereupon the ſaid Burgeſſes and Aſſiſtants ſhall have due regard to the ſaid appeals, and may, if they think proper, examine the perſons appealing upon oath or affirmation concerning the cauſe of their appeal; and upon ſuch examination or other proof they are hereby impowered to diminiſh or add to ſuch perſons rate or aſſeſſment, as to them ſhall ſeem juſt and reaſonable; with power alſo to call before them ſuch perſons, and take notice of ſuch eſtates, as they find omitted in the ſaid aſſeſſment; and if the perſons ſo omitted refuſe or neglect to appear, and give an account of the value of their eſtates, they ſhall be rated and aſſeſſed according to their eſtates by the judgment of the ſaid Burgeſſes and Aſſiſtants, or a majority of the ſaid Aſſiſtants, with one of the ſaid Burgeſſes. And the Town Clerk ſhall within five days after the appeal deliver to the Treaſurer a true account of the ſum total, which the Collector aforeſaid ſhall be charged with. And the ſaid Burgeſſes and Aſſiſtants ſhall cauſe the Town Clerk to draw a fair duplicate of the aſſeſſments, ſo rectified as aforeſaid, within five days after the ſaid day of appeal, with an order, under the hands of at leaſt one of the ſaid Burgeſſes and two Aſſiſtants, requiring the ſaid Collector forthwith to collect and receive from the perſons aſſeſſed the ſeveral ſums in the ſaid duplicate mentioned; and in caſe any perſon or perſons, ſo rated or aſſeſſed by virtue of this act, ſhall neglect or refuſe to pay the ſum or

Method of proceeding on the day of appeal,

Collector to levy the taxes,

ſums

ſums ſo aſſeſſed for the ſpace of ſix days after demand made, the ſaid Collector ſhall by a warrant, under the hand and ſeal of one of the Burgeſſes, for that purpoſe, levy the ſame by diſtreſs and ſale of the offender's goods and chattels, rendering the overplus, if any be, after reaſonable charges deducted, to the owner or owners thereof; but if no diſtreſs can be found by the Collector, and the party refuſes or neglects to ſhew him goods or chattels of his own forthwith to ſatisfy the money due, with the reaſonable charges, then the ſame ſhall be levied by impriſonment of the perſon ſo neglecting or refuſing to pay as aforeſaid, until the ſame ſhall be paid; or the ſame may be levied on the goods and chattels of any of his tenants, if ſuch there be, and the delinquent ſhall be obliged to diſcount it out of the firſt rent that ſhall afterwards accrue from the eſtate rented.

and pay them to the Treaſurer.

SECT. 24. *And be it further enacted by the authority aforeſaid*, That the ſaid Collector ſhall once in four weeks at leaſt render a true account of and bring in and pay unto the Treaſurer of the ſaid borough all ſuch ſums of money as he ſhall have received, and ſhall pay the whole and every of the ſums of money aſſeſſed in his duplicate within ſix months next after the day of appeal, [ſuch deficiencies as the ſaid Burgeſſes and any three of the Aſſiſtants ſhall allow being firſt deducted] and the ſaid Treaſurer ſhall give receipts to the Collector for what he ſhall ſo bring in and pay from time to time, which receipts ſhall be the Collector's diſcharges for ſo much; and when the ſaid Collector is negligent, or refuſes to do his duty in the premiſes, the Treaſurer is hereby required forthwith to ſignify the ſame by way of complaint to the Burgeſſes; and if thereupon it ſhall appear to them that the ſaid Collector hath refuſed or neglected to pay the ſaid ſums of money, which he is charged to collect within the times limited by this act, then and in ſuch caſe he the ſaid Collector ſhall forfeit and pay to the Treaſurer the ſum of Ten Shillings, and ſhall alſo pay all the arrearages of ſuch aſſeſſment which he was appointed to collect, to be levied by a warrant under the hands and ſeals of the ſaid Burgeſſes,

Penalty on neglect.

directed

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directed to the Sheriff of the county of New-Caſtle, who is hereby authoriſed and required to execute ſuch warrant upon the goods and chattels of the ſaid Collector, and in caſe no goods or chattels can be found, then to impriſon ſuch Collector until payment be made; and the ſaid Collector, having made ſatisfaction, is hereby impowered, without any further warrant, to diſtrain for his own uſe upon all ſuch as ſhall have neglected or refuſed to pay him the arrearages due. And the ſaid Collector ſhall, for his trouble and ſervice enjoined him as Collector, retain in his hands a Shilling per Pound for all ſums of money by him collected, and no more.

Electors to chuſe a Treaſurer yealy:

SECT. 25. *And be it further enacted by the authority aforeſaid*, That the freeholders and electors within ſaid borough ſhall, at every annual election, chuſe one ſubſtantial inhabitant of the ſaid borough to be Treaſurer for the ſaid borough, who ſhall provide a ſuitable book, and therein enter a particular account of all the rates and aſſeſſments made as aforeſaid, and all the monies to him paid by virtue of this act; and alſo of all diſburſements and payments that he ſhall make by orders from the Burgeſſes, or either of them, whoſe order to the ſaid Treaſurer, from time to time, ſhall be ſufficient for the payment of ſuch monies as ſhall come into his hands.

his duty:

He is to give bond for performance of his duty,

SECT. 26. *And be it further enacted by the authority aforeſaid*, That the ſaid Treaſurer ſhall, before he enters on the execution of his office, give a bond in double the ſum that doth or probably may come to his hands as Treaſurer, and, if required by the Burgeſſes and at leaſt three of the Aſſiſtants, one ſufficient ſurety, to be by them approved, with condition for the payment of all ſuch monies which ſhall come to his hands by virtue of this act, according to the orders drawn on him as aforeſaid, and not otherwiſe, and for the due performance of his duty in the truſt hereby committed to him. And the ſaid Treaſurer ſhall on or before the ſeventh day of September yearly, or oftner if required, bring in his accounts and ſettle and make up the ſame before the Burgeſſes and Aſſiſtants aforeſaid, and any of the ſaid freeholders and electors,

and to ſettle his accounts yearly, or oftener if required,

who

who shall be willing, may be present; and the said Treasurer and Assessor shall have for their trouble in the premises such sum or sums of money as the said Burgesses and Assistants shall from time to time think reasonable and allow.

Assessor or Treasurer refusing or neglecting their duty, the penalty:

SECT. 27. *And be it further enacted by the authority aforesaid*, That if any person or persons shall hereafter be chosen Assessor or Treasurer at any such annual election as aforesaid, or shall be appointed Assessor or Treasurer in manner as is herein after mentioned, and shall neglect or refuse to execute such office to which he shall be elected as aforesaid, every such person shall forfeit and pay the sum of Five Pounds, to be recovered by distress and sale of his goods and chattels, by warrant under the hand and seal of one of the Burgesses for the time being, and paid to the Treasurer for the use of the said borough; or in case of death or other inability, the said Burgesses and Assistants, from time to time, may and shall appoint another suitable person to be Assessor or Treasurer, as the case may or shall require; who shall execute the power and trust of an Assessor or Treasurer until the next annual election; the said Treasurer giving bond and if required a surety therein, as herein before directed, and the Treasurer so removed, disabled or going out of office, or the executors or administrators of the Treasurer so dying shall deliver to the succeeding Treasurer all books, public accounts and papers, belonging to the said office, whole, entire and undefaced, and shall likewise pay to the succeeding Treasurer all such sum and sums of money as he may have received, or have been paid to him, in pursuance of this act, under the forfeiture of the whole penalty of his bond, against which there shall be no relief.

How to supply such deficiencies,

Penalties to be recovered in the name of the Treasurer before one of the Burgesses for the use of the borough.

SECT. 28. *And be it further enacted by the authority aforesaid*, That all the penalties, fines and forfeitures to become due and payable by this act, the manner of levying and recovering of which is not before or herein after directed, shall be recovered, together with the costs of prosecution, before one of the Burgesses of the said borough, and shall be levied by warrant, under the hand and seal of one of the same Burgesses

to

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to any Conſtable of the ſaid borough directed, who is hereby impowered and required to execute the ſame by diſtreſs and ſale of the offender's goods and chattels; and where goods and chattels ſufficient cannot be found, then the party or parties offending ſhall be committed to the common gaol of the county, there to remain until payment made: All which recoveries ſhall be had in the name of and by the Treaſurer for the time being, to whom the ſums recovered ſhall be paid, to be by him applied towards defraying the public debts of the ſaid borough.

Commiſſioners to regulate wharffs and ſluices in the river Chriſtiana.

SECT. 29. *And whereas* the owners of wharffs, on Chriſtiana river, in the ſaid borough, may and do carry out their wharffs into the ſame river as far as they reſpectively pleaſe, to the prejudice of each other, and of the navigation in ſaid river, *Be it further enacted by the authority aforeſaid*, That Griffith Minſhall, William Poole, Daniel Byrnes, Job Harvey, Joſeph Shallcroſs, Rumford Dawes and Hezekiah Niles, gentlemen, or any four of them, are hereby authoriſed, impowered and required, to view the river Chriſtiana aforeſaid, and conſider how far it may be neceſſary and convenient to build or extend the wharffs into the aforeſaid river within the ſaid borough, and to fix and determine how far the ſaid wharffs at any time hereafter may be built or extended into the ſaid river, by limiting the ſeveral diſtances or extent thereof in feet and inches, to be computed and meaſured from the ſoutherly ſide of Water-ſtreet, or of any other ſtreet or ſtreets within the ſaid borough, or from other certain land-marks, where ſuch ſtreet or ſtreets may not be convenient to determine the ſaid diſtances or extent from; and alſo to determine the ſize, direction and form of all the ſluice-ways to be left open in the ſaid wharffs ſo hereafter to be built or extended in the aforeſaid river within the borough aforeſaid, which determination and limitation, made by the aforeſaid viewers, or any four of them, ſhall be recorded in the town-books, with the particular diſtances and limitations from the ſaid ſtreet or ſtreets or other certain land-marks, at large expreſſed, that all perſons may govern themſelves accordingly. And if any perſon or perſons whatſoever, at any time after

after ſuch determination and limitation ſhall be made and recorded as aforeſaid, ſhall build or extend any wharff, wharffs or landing-places, filled up with mud, earth or other materials, ſolid from the foundation, into the aforeſaid river, further than by ſuch determination and limitation they ſhall be allowed to do, or ſhall neglect or refuſe to put or leave ſuch ſluice-way in the ſaid wharffs or landing-places in the proper place thereof, according to ſuch determination and limitation aforeſaid, that then every ſuch perſon or perſons, builder or builders, being thereof convicted in any Court of General Quarter Seſſions within this government, ſhall for every ſuch offence ſeverally forfeit and pay the ſum of One Hundred Pounds, beſides the coſts of proſecution, one moiety thereof for the uſe of the ſaid borough, and the other moiety for the uſe of the perſon or perſons that ſhall ſue for the ſame; and the ſame wharff, extended beyond the limitation aforeſaid, may and ſhall be abated and removed by the Burgeſſes and Aſſiſtants for the time being.

Penalty on ſuch as may build contrary to ſuch regulation.

Sect. 30. *Provided always, and it is hereby enacted*, That nothing herein contained ſhall prevent or hinder, or be conſtrued to prevent or hinder, any perſon or perſons whatſoever, being the owners of ground, bounded on Chriſtiana river, within the ſaid borough, from building, making, erecting and carrying out, a wharff or wharffs thereupon, conſtructed in the following manner; *That is to ſay*, To be raiſed on piles of wood to be placed in rows, in the ſame direction with the ſluice-ways, at the diſtance of ten feet the one row from the other; ſo always, that the ſame wharffs do not extend into the ſaid river ſo far as to obſtruct the navigation thereof, but leave the channel of the ſame in all places one hundred feet in breadth at the leaſt.

Proviſion made for wharffs erected on piles of wood.

Sect. 31. *And be it further enacted by the authority aforeſaid*, That all and every matter and thing whatſoever made cognizable, or to be done or performed, before or by a Juſtice of the Peace of the county, by any law of this government, ſhall and may be heard, adjudged, done, executed and performed, by or before either of the Burgeſſes within the ſaid borough, who

The authority of the Burgeſſes and Conſtables.

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(b) who are hereby authoriſed and impowered to commit offenders and debtors to the county gaol; and further, it ſhall and may be lawful to and for the Conſtables of the ſaid borough for the time being, and they are hereby enjoined and required duly to execute every ſuch precept by delivering the ſame, with the perſons that ſhall be ſo committed, to the keeper of the county gaol for the time being, who is hereby enjoined and required to receive and keep them purſuant to the tenor of ſuch precepts, under the like penalties as for ſuffering eſcapes in other caſes.

SECT. 32. *And be it further enacted by the authority aforeſaid*, That this act ſhall be deemed and taken to be a public act, and ſhall be judicially taken notice of as ſuch, by all judges and juſtices, and other perſons whatſoever, without ſpecially pleading the ſame.

Paſſed June 13, 1772.

CHAP. CCVII. a.

1772. *A Supplementary* ACT *to an act, entituled*, An act for regulating elections and aſcertaining the number of the Members of Aſſembly.

Preamble. WHEREAS the laws for regulating elections in this government have not proved effectual in providing for the impartiality thereof, and in preventing frauds therein;

SECTION 1. *BE it enacted by the honorable Richard Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame*, That from and after the publication of this act, every Sheriff,

(b) See chap. 89. b. paſſed Feb. 5, 1782, whereby a Burgeſs of the ſaid borough is authoriſed to adminiſter the oath or affirmation directed to be taken by an Auditor appointed under a rule of court in chap. 204. a. ſect. 31. Ante.

Sheriff, or in his abſence the Coroner, ſhall be the Judge of the Election; *(b)* and the ſaid Sheriff, or Coroner, or in his abſence any Juſtice of the Peace, in the morning of the day of Election and before the ſame is begun, may and ſhall adminiſter to the Inſpectors the following oath or affirmation, *That they ſhall and will duly attend the enſuing election during the continuance thereof; and truly and faithfully aſſiſt the Sheriff or Coroner to prevent all frauds and deceits whatſoever of electors or others in carrying on the ſame; and do and perform all other matters and things of them required by law; according to the beſt of their ſkill and knowledge*; who, when ſo qualified, ſhall have concurrent power, juriſdiction and authority with the Sheriff or Coroner, as well in preſerving good order and keeping the peace, as in deciding all queſtions reſpecting the ſame election; and if on any ſuch queſtion they ſhall be equally divided, the Sheriff or Coroner ſhall have a double voice: And after the Repreſentatives to ſerve in the General Aſſembly of this government are choſen, their names ſhall be written in a pair of indentures, ſealed between the ſaid Sheriff or Coroner and at leaſt two of the ſaid Inſpectors, together with four of the electors then preſent.

The Sheriff or Coroner ſhall be the Judge of the Elections.

Qualification of the Inſpectors;

who ſhall be concurrent judges.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Sheriff, or in his abſence the Coroner, or in his abſence the Inſpectors, or a majority of them, to appoint two or more Clerks, as he or they ſhall think proper, each of whom ſhall be of the full age of twenty-one years, and ſhall be duly ſworn or affirmed by the Sheriff or Coroner, or in his abſence by one of the ſaid Inſpectors, *That he will truly and impartially write the name of each candidate, and mark down the number of votes he may have, as the names ſhall be read unto him by the ſaid Sheriff, Coroner, Inſpectors, or one of them.*

Clerks their Qualification.

SECT. 3. *Provided always, and be it enacted*, That each and every Inſpector, at the time of taking every vote or ticket, ſhall call out aloud the name of the

The Inſpectors ſhall call out aloud the names of the electors;

(b) See after in chap. 44. b. paſſed June 5, 1779, what perſons in the abſence of Sheriff and Coroner are impowered to hold elections; and for ſome further proviſions for the better ſecuring of elections in this ſtate.

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person from whom he took the same, so as to be heard by the other Judges of the said Election.

and shall severally put the tickets into the box marked for the respective hundred,

SECT. 4. *And be it further enacted by the authority aforesaid*, That every Sheriff, at the expence of his county, shall provide as many boxes as there are hundreds in the same, and shall cause the name of the hundred, for which each of them is designed, to be painted thereon, and on the day of election shall deliver the same severally to the Inspector for the hundred which shall be so painted thereon; and each of the said Inspectors, after having called out the name of each elector presenting his ticket or vote as aforesaid, and after the same is approved, shall put the same carefully into the box, having the name of the hundred for which he is Inspector thereon, and no other.

When all appearing have voted, the boxes are to be opened and the votes ascertained and put into one box, after which no vote is to be taken.

SECT. 5. *And be it further enacted by the authority aforesaid*, That after all the electors then appearing have delivered in their respective tickets, or the names of the persons they vote for, the said boxes shall be opened successively by the Sheriff or Coroner, or one of the said Inspectors appointed to that service by the rest of the said Inspectors, or a majority of them, and the votes in each box counted and ascertained, and in like manner the names of the persons in each hundred who have voted shall be counted and ascertained, and after the same shall be compared with each other, shall be all put into one box and mixed together; after which no more tickets or votes shall be received on any pretence whatsoever; and then and not before the said papers or votes shall be taken out of the box aforesaid by the Sheriff or Coroner, or one of the said Inspectors, and by them read or delivered one by one to the Clerks to be appointed as aforesaid.

Penalty on offering to vote a second time;

SECT. 6. *And be it further enacted by the authority aforesaid*, That all and every person or persons having voted at any election, who shall vote a second time at the said election, or offer a vote again to any of the said Inspectors, being thereof convicted by the testimony of one lawful witness, or confession of the party, before any one Justice of the Peace of the county where such offence shall be committed, shall forfeit and pay the sum of Twenty Shillings, to be levied, together

together with the coſts of proſecution, by warrant under the hand and ſeal of ſuch juſtice, upon the goods and chattels of the offender, to be applied to the relief of the poor of the ſaid county; and if no ſuch goods and chattels can be found, execution ſhall be awarded againſt the body of the ſaid offender, and he ſhall be committed to the gaol of the ſaid county, there to remain until the ſaid penalty and coſts ſhall be ſatisfied.

how to be recovered.

Sect. 7. *And* the better to enable the Houſe of Aſſembly to judge of the elections of their Members, in caſe of any conteſt about the ſame, and to ſecure the freemen of this government their juſt rights, *Be it further enacted by the authority aforeſaid*, That every Sheriff or Coroner, at the time by law appointed for making the returns of the perſons elected to ſerve as Repreſentatives, ſhall alſo return to the Houſe of Aſſembly, if required, all the liſts of the names of taxables which are delivered to the Inſpectors by the Collectors of the ſeveral hundreds, and uſed by the ſaid Inſpectors in aſcertaining the perſons voting at the ſame election; together with the liſts and tallies of their Clerks, and the votes or tickets delivered in and read at the ſame election, under the penalty of Fifty Pounds; which ſaid liſts the Inſpectors reſpectively ſhall deliver to the ſaid Sheriff or Coroner, for that purpoſe, undefaced, and the number of the perſons voting aſcertained in words at length in a certificate thereof, on the ſaid liſts, ſigned by them reſpectively, under the penalty of Twenty Pounds each; and which ſaid liſts and tallies of the ſaid Clerks ſhall be by them reſpectively delivered in like manner caſt up, and the number of votes for each candidate mentioned in words at length, and ſigned with their names reſpectively, and alſo by two or more of the ſaid Inſpectors, under the like penalty; which ſaid penalties may be recovered by any perſon who will ſue for the ſame, by action of debt, bill, plaint or information, in any Court of Record in this government, with coſts of ſuit.

Returns to be made by the Judges and Clerks of the election:

Penalties on neglect.

Sect. 8. *Provided always*, That nothing herein contained ſhall be deemed or taken to alter or make void the ſaid act of General Aſſembly, made in the

ſeventh

CHAP. CCVII. 1772.

seventh year of the reign of his late Majesty George the Second *(c)* nor the act passed in the sixth year of his present Majesty, *(d)* nor any thing therein or in either of them, but that every clause and article in the said acts, or in either of them contained, except what is hereby expressly altered or supplied, shall be and remain in full force and virtue.

Former laws not hereby altered to remain in force.

SECT. 9. *Provided also*, That this act shall be and continue in force for the term of three years, and from thence to the end of the next Session of Assembly, and no longer. *(e)*

Limitation.

Passed June 13, 1772.

CHAP. CCVIII. a.

1772. *An* ACT *for the restraining and preventing lotteries.*

WHEREAS lotteries in general are pernicious and destructive to frugality, industry, trade and commerce, are introductive of idleness and immorality, and against the common good and welfare of a people: *And whereas* lotteries for the disposal of private property at an over-rated value, for the sole benefit of the proprietors, and other selfish and illaudable purposes, have lately been set up and drawn in these counties, and are become very frequent; For the restraining whereof in future,

SECTION 1. *BE it enacted by the honorable Richard Penn, esq. by and with his Majesty's royal approbation, Lieutenant Governor and Commander in Chief, under the honorable Thomas Penn and John Penn, esquires, true and absolute proprietaries of the counties of New-Castle, Kent and Sussex, upon Delaware, and province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties in General Assembly met, and by the authority of the same*, That from

(c) See before chap. 61. a.

(d) See before chap. 187. a.

(e) Made perpetual, see after chap. 228, a. passed September 2, 1775.

from and after the publication of this act, no perſon or perſons ſhall publi[illegible] or privately ſet up, erect, make, keep open, ſhew, or expoſe, to be played at, drawn at, or thrown at within theſe counties, any lottery, or game or device in nature of a lottery, or ſhall cauſe or procure the ſame to be done, either by dice, lots, cards, balls, tickets, or any numbers or figures, or in any other manner or way whatſoever; and that every perſon that ſhall ſet up, erect, make, keep open, ſhew, or expoſe, to be played at, drawn or thrown at, any ſuch lottery, game or device, or that ſhall cauſe, or procure the ſame to be done, and ſhall be thereof legally convicted in any Court of Quarter Seſſions, within the juriſdiction whereof the ſaid offences ſhall be committed, or in the Supreme Court, if thereunto removed from any of the ſaid Courts of Quarter Seſſions, ſhall forfeit and pay the ſum of Five Hundred Pounds, lawful money of the counties aforeſaid.

Perſons ſetting up public or private lotteries, &c. to be fined on conviction, &c.

Penalty.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That all and every perſon and perſons whatſoever that ſhall buy, ſell, or expoſe to ſale, or that ſhall advertiſe, or cauſe to be advertiſed, the ſale of any ticket or tickets, or device whatſoever, in ſuch lotteries or games, or that ſhall be aiding, aſſiſting, or in any ways concerned in managing, conducting, or carrying on ſuch lotteries or games, by whatſoever name the ſame may be called, and be thereof legally convicted in either of the courts aforeſaid, ſhall forfeit and pay the ſum of Ten Pounds, lawful money aforeſaid, for every ſuch offence.

Perſons ſelling tickets, &c. or aiding, &c. in carrying on lotteries, to be fined, &c.

Penalty.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That all and every perſon and perſons whatſoever that ſhall within theſe counties buy, ſell, or expoſe to ſale, or ſhall advertiſe or cauſe to be advertiſed, the ſale of any ticket or tickets, or other device whatſoever, in any lottery, or game in nature of a lottery, which ſhall be hereafter ſet up, erected, made, kept open, ſhewn, or expoſed, to be drawn at, played at, or thrown at, in or at any place or places out of this government [ſtate-lotteries, erected and licenſed by act of Parliament in Great Britain, only excepted and foreprized] and be thereof legally convicted

Exception.

in

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in manner aforeſaid, ſhall forfeit and pay the ſum of Ten Pounds, lawful money aforeſaid, for every ſuch offence.

Penalties, &c. to go to Overſeers of Poor.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all the fines, forfeitures and penalties hereby inflicted, ſhall be paid to the Overſeers of the Poor for the time being, for the uſe of the poor of the hundred where any of the ſaid offences ſhall be committed.

Lotteries now-publiſhed excepted,

SECT. 5. *Provided always nevertheleſs*, That nothing herein contained ſhall be deemed or taken to extend to any lottery advertiſed, or the ſcheme whereof hath been printed and publiſhed, on or before the publication hereof, nor to the ſelling or buying any ticket or tickets in ſuch lottery, any thing herein contained to the contrary notwithſtanding.

Paſſed June 13, 1772.

CHAP. CCIX. a.

1772.

An ACT *for the new appointment of a Truſtee of the General Loan Office in Suſſex county.*

WHEREAS by an act of Aſſembly of this government, intituled, *An act for the new appointment of Truſtees for the ſeveral General Loan Offices within this government*, paſſed in the eighth year of the reign of his preſent Majeſty, Jacob Kollock and John Rodney, gentlemen, were conſtituted and appointed Truſtees of the General Loan Office of the county of Suſſex:

And whereas the ſaid Jacob Kollock is ſince dead, whereby a new appointment of a Truſtee to execute ſaid office in the ſaid county of Suſſex is become neceſſary;

SECTION 2. *BE it therefore enacted by the honorable Richard Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives*

Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That David Hall, eſq. is hereby nominated and appointed a Truſtee of the General Loan Office of Suſſex county in the place and ſtead of Jacob Kollock, eſq. deceaſed; which ſaid David Hall, ſhall and may have, hold and enjoy the ſame office for and during the reſidue of the term of four years next after the paſſing of the ſaid act yet unexpired, and from thence to the end of the next Seſſion of Aſſembly, or until a new nomination and appointment of Truſtees of the ſaid General Loan Office ſhall be made.

SECT. 3. *And* the ſaid David Hall is hereby authoriſed and impowered forthwith to enter upon the execution of the truſt to which he is hereby appointed in the ſaid county, and to receive, re-emit and exchange all bills of credit of this government, according to the directions of the act of Aſſembly, intituled, *An act for re-printing, exchanging and re-emitting Twenty Thouſand Pounds of the bills of credit of this government, to be let out on loan, and for ſtriking the further ſum of Seven Thouſand Pounds in ſuch bills, and giving the ſame to his Majeſty's uſe, and for providing a fund for ſinking the ſame,* paſſed in the thirty-ſecond year of the reign of his late Majeſty King George the Second, and to do and perform all other matters and things enjoined and required to be done and performed by the ſeveral Truſtees in their reſpective counties, by any act of Aſſembly heretofore made or hereafter to be made, during his continuance in the ſaid office, as fully and amply to all intents and purpoſes, as the preſent or former Truſtees of the ſeveral Loan Offices within this government now can, or might or would have done, by virtue of any acts of Aſſembly by which the ſaid Truſtees therein named were appointed, and as fully as if the ſaid David Hall had been nominated, conſtituted and appointed, a Truſtee of the ſaid county of Suſſex in the bodies of the ſaid acts of Aſſembly.

SECT. 4. *Provided always,* That before the ſaid David Hall ſhall enter upon the execution of his truſt, or of any part thereof, he ſhall enter into bond, with good ſecurity, in the penal ſum of Four Thouſand Pounds

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Pounds to Jacob White and John Wiltbank, of Suſſex county, gentlemen, or the ſurvivor of them, their executors and adminiſtrators; who are hereby nominated and appointed Truſtees and Agents for the public for that end and purpoſe, conditioned for the due and faithful execution of his truſt and performance of all things required of him by this act, with further condition to deliver up to his ſucceſſor in the ſaid truſt the mortgage deeds, bonds and warrants of attorney, plate, bills of credit, and other money remaining in the ſaid office, or when he ſhall be removed from his truſt; and ſhall take the oath enjoined by the laws of this government to be taken by the Truſtees of the Loan Offices within this government, for the due performance of their reſpective truſts as aforeſaid, before ſome Juſtice of the Peace.

SECT. 5. *And* if the ſaid David Hall ſhall happen to die, or be removed for any cauſe whatſoever, it ſhall and may be lawful to and for the General Aſſembly of this government to nominate and appoint ſome other fit perſon in the place and ſtead of the ſaid David Hall, who ſhall, upon entering into the ſame bond, and taking ſuch oath or affirmation as is before mentioned, have the ſame power and authority as if he had been nominated and appointed by this act.

Paſſed June 13, 1772.

CHAP. CCX. a.

1772. *An* ACT *to prevent ſwine running at large in the town of Dover.*

WHEREAS the inhabitants of the town of Dover, in Kent county, upon Delaware, have heretofore received and ſuffered great ſpoil and damage in their ſeveral incloſures from ſwine, by reaſon of their running at large within the limits of the ſaid town; for prevention whereof for the future,

SECTION 1. *BE it enacted by the honorable Richard Penn, eſq. with his Majeſty's royal approbation, Lieutenant*

ant Governor, and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That from and after the firſt day of Auguſt next enſuing the publication of this act, no inhabitant or inhabitants of the ſaid town, or other perſon or perſons whatſoever, ſhall ſuffer or permit any of their hogs or ſwine to run at large within the limits or bounds of ſaid town; and if any perſon or perſons ſhall keep or ſuffer any of their hogs or ſwine to run at large after the ſaid firſt day of Auguſt within the bounds or limits aforeſaid, the owner or owners of all ſuch hogs or ſwine ſhall forfeit the ſame, or forfeit and pay the ſum of Ten Shillings for each hog kept or ſuffered to run at large as aforeſaid, to be levied with coſts by diſtreſs and ſale of the offender's goods and chattels, by warrant under the hand and ſeal of any one Juſtice of the Peace of the ſaid county of Kent, one half whereof to be paid to any perſon or perſons who will ſue for the ſame, and the other half to the Overſeer or Overſeers of the Poor of Murther-kill hundred, for the uſe of the poor of the ſaid hundred.

Swine not to run at large in Dover.

Penalty,

how to be recovered and applied.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for any perſon or perſons whatſoever, to ſhoot or kill all ſuch hogs or ſwine ſo kept or permitted or ſuffered to run at large as aforeſaid within the bounds or limits of the ſaid town of Dover, and to give notice thereof to the keeper of the public gaol of Kent county aforeſaid, for the time being, for whom it ſhall and may be lawful to take all ſuch hogs or ſwine ſo ſhot or killed as aforeſaid for the uſe and maintenance of ſuch poor priſoners as ſhall or may be in or under his cuſtody. And if any ſuit or action ſhall be commenced, brought or proſecuted againſt any perſon or perſons whatſoever for any act or thing by him, her or them done in purſuance of this act, it ſhall and may be lawful to and for the defendant or defendants in ſuch ſuit or action, to plead the general iſſue, and on the trial thereof to give this preſent act in evidence; whereof

may be killed by any perſon,

and delivered to gaoler for uſe of priſoners.

In caſe of ſuit, general iſſue may be pleaded, and this act given in evidence.

CHAP. CCX. 1772.

all juſtices of the ſeveral courts of law and other perſons whatſoever within this government are hereby ſtrictly required and enjoined to take notice, and govern themſelves accordingly.

Former act repealed, chap. 45. a.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That an act of General Aſſembly of this government, intituled, *An act to prevent ſwine running at large in the town of Dover*, ſhall be and is hereby repealed and declared to be null and void.

Paſſed June 13, 1772.

CHAP. CCXI. a.

1772. *A Supplementary* ACT *to the act, intituled*, An additional ſupplementary act for the amendment of an act of General Aſſembly of this government, intituled, an act for the better regulation of the roads in New-Caſtle county. *(a)*

WHEREAS the King's road leading from the village called St. George's to Appoquinimink bridge in the county of New-Caſtle, hath been laid out and confirmed over the mill dam adjoining to the ſaid village, and the owners or poſſeſſors of the mill and the ſaid dam for the time being by the ſaid act of Aſſembly, paſſed in the ſixth year of his Majeſty's reign, are obliged to keep the ſaid dam and the bridges erected thereon at all times in good order and repair, at their ſole charge and expence, which hath ſince been found too great a burthen upon them, as the ancient road leading from the village aforeſaid to Appoquinimink bridge ran below the ſaid mill and dam, and the carriages and travellers paſſing along the road over the ſaid dam have of late greatly increaſed. Now, for the relief of the preſent and future owners

(a) For the preceding laws for the better regulation of the roads in New-Caſtle county, ſee chap. 180. a. chap. 184. a, and chap. 195. a.—For the original general law, ſee chap. 131. a.

CHAP. CCXI. 1772.

owners and poſſeſſors of the ſaid mill and dam, and for their encouragement to keep the ſaid dam and bridges thereon at all times, in good order,

SECTION 1. *BE it enacted by the honorable Richard Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That the Treaſurer of the ſaid county of New-Caſtle for the time being, may and ſhall, yearly, and every year hereafter, pay or cauſe to be paid to the owners and poſſeſſors of the mill and dam at St. George's aforeſaid the ſum of Three Pounds, on the fourth Tueſday in November; and that the Collectors of the public tax or aſſeſſment for the time being for the hundreds of Redlion and St. George's, in the ſaid county, may and ſhall, on the ſame day forever, ſeverally pay or cauſe to be paid unto the ſaid owner or owners of the mill and dam aforeſaid the ſeveral ſums of Thirty Shillings, out of the public money in the hands of the ſaid Treaſurer and Collectors reſpectively; which ſaid ſums being paid as aforeſaid ſhall be allowed to them at the ſettlement of their accounts.

By whom the owners of St. George's Mill-dam are to be paid Six Pounds yearly.

SECT. 2. *And whereas* divers mills are ſituate ſo near the roads and highways within this government that the water-wheels belonging to the ſame mills when going round are apt to fright and ſcare the horſes of travellers and others paſſing and repaſſing there, whereby many dangerous accidents may be occaſioned: For prevention whereof, *Be it enacted by the authority aforeſaid,* That each and every owner or poſſeſſor of any mill or mills already built, or which hereafter may be built near to any of the roads and highways within this government, the water wheels of which mills are or may be expoſed to the view of horſes paſſing and repaſſing on the ſame roads and highways as aforeſaid, ſhall and he is hereby required and directed, within four months after the publication of this act, or immediately upon the erection of any mill hereafter to be built, to make, ſet up and erect between ſuch water-wheel and road, at ſuch diſtance from the road that

Water wheels to be concealed by cover, &c.

no

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no obſtruction of the paſſage thereof will be occaſioned, a ſhed, cover or blind to hide and conceal the view of the ſaid water-wheel, under the penalty of Ten Pounds for every ſuch neglect or refuſal; to be ſued for and recovered by any one of the Overſeers of the highways in the hundred where the ſame offence ſhall be committed before any three Juſtices of the Peace of the county, to be applied to the repairing the roads in the ſaid hundred; and if the ſaid owner or poſſeſſor ſhall refuſe or neglect to make, ſet up and erect, or after to repair ſuch ſhed, cover or blind, in manner aforeſaid, for and during the ſpace of teh days after notice and demand made by any one Overſeer of the highways of the hundred, that then and in ſuch caſe the Overſeers of the highway, or any of them, ſhall make, ſet up and erect and after repair ſuch ſhed, cover or blind, and defray the expence out of the monies of the ſaid hundred, and ſhall recover the money ſo expended, together with double coſts, of the reſpective owner or poſſeſſor, as is herein before directed; *Provided always, and be it further enacted by the authority aforeſaid*, That if the ſame erection ſhall be made by a poſſeſſor being a tenant, or done at his expence, that the value of the ſame ſhall be retained by ſuch tenant out of his rent, or reimburſed to him by his landlord.

Penalty on neglect.

Renters to be reimburſed.

SECT. 3. *And*, in order to enable the Overſeers of the roads and highways in the reſpective hundreds within this government the more effectually to do their duty in the opening, clearing, amending and repairing the ſame, *Be it enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Overſeers aforeſaid, or any other perſon or perſons by his or their order and direction, to enter upon any lands adjoining to or lying near the public roads and highways within their reſpective hundreds, and to cut or open ſuch drains and ditches through the ſame as he or they ſhall judge neceſſary completely to carry off and drain the water from ſuch roads, provided the ſame be done with as little injury and damage as may be to the owner of ſuch lands, which drains and ditches ſo cut and opened, ſhall be kept open by the ſaid Overſeers if neceſſary for amending the ſaid road,

Overſeers of roads may open drains through lands adjoining,

and

and ſhall not be ſtopped or filled up by the owner or owners thereof or any other perſon or perſons whatſoever under the penalty of Four Pounds for every ſuch offence.

and carry from ſuch lands, ſtones, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That the ſaid Overſeers ſhall have full power and authority in any ground or lands adjoining the ſaid public roads or highways within their reſpective hundreds to dig or cauſe to be dug any gravel, ſand or ſtones, or to gather any looſe ſtones lying on the ſaid lands, as he or they ſhall think neceſſary for the purpoſes aforeſaid, provided the ſame be done with as little damage as may be to the owner or owners of ſuch land, and the ſame gravel, ſand or ſtones ſo dug and gathered to carry off, without the lett, hindrance or controul of the owner, he the ſaid Overſeer paying or tendering to the ſaid owner ſo much purchaſe money as they ſhall agree the ſame to be worth, and if the ſaid Overſeer and owner cannot agree upon the price of the materials ſo wanted for repairing the roads aforeſaid, then and in every ſuch caſe, ſo much money ſhall be paid by the ſaid Overſeers reſpectively as any two indifferent freeholders of the hundred where ſuch public roads and highways do lie, to be choſen by the parties, ſhall eſtimate and adjudge the value of the materials ſo wanted for repairing the ſaid roads in their reſpective hundreds as aforeſaid.

Paſſed June 13, 1772.

CHAP. CCXII. a.

1772.

An ACT *for veſting the State Houſe, and other public buildings, with the lot of ground whereon the ſame are erected, together with other ground, ſituate in the town of New-Caſtle, in Truſtees for the uſes therein particularly mentioned.*

Preamble.

WHEREAS the lot of land, ſituate in the ſquare, called the Market Square, in the center of the town of New-Caſtle, and contained within the bounds following, *to wit*, Beginning at a ſtone placed for a corner

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corner on the north-eaſt ſide of the Market-ſtreet and at the north-weſt end of the ſtate-houſe, and extending thence north fifty-one degrees eaſt fifteen perches to a ſtone placed for a corner in the ſaid ſquare [the ſaid line running two perches from the north-weſt end of the ſaid ſtate-houſe] thence ſouth thirty nine degrees eaſt eight perches to another ſtone placed for a corner in the ſaid ſquare, thence ſouth fifty-one degrees weſt fifteen perches to another ſtone placed for a corner on the north-eaſt ſide of Market-ſtreet aforeſaid, and from thence along the ſaid ſtreet and bounded therewith north thirty-nine degrees weſt eight perches to the place of beginning, hath at all times been conſidered, taken and held, as ground dedicated to the uſe of the public, and accordingly a ſtate-houſe, gaol, and other buildings, have been erected thereon at the charge of the county of New-Caſtle: Now, to the end and intent that the ſaid ſtate-houſe, gaol, buildings and lot of land deſcribed as aforeſaid, may be effectually ſecured for the public, and that the legal eſtate and inheritance therein may be veſted in Truſtees to and for the uſes and purpoſes herein after mentioned and ſpecified;

SECTION 1. *BE it enacted by the honorable Richard Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor, and Commander in Chief, of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame,* That the ſaid ſtate-houſe, buildings and lot of land, and all the immunities, improvements, advantages, hereditaments and appurtenances to the ſame belonging or in anywiſe appertaining, and the remainder and remainders, reverſion and reverſions thereof, ſhall, from and after the paſſing of this act, be ſettled upon, and veſted in Thomas M'Kean, George Read, John M'Kinly, Alexander Porter, George Monro, John Evans and David Thompſon, gentlemen, and the ſurvivors and ſurvivor of them, and the heirs and aſſigns of ſuch ſurvivor for ever; upon the truſts nevertheleſs, and to and for the ends, intents and purpoſes, and ſubject to the uſes herein after mentioned,

The ſtate-houſe, &c. veſted in Truſtees.

Names of the Truſtees.

tioned, expreſſed and declared, *That is to ſay*, As to the ſaid ſtate-houſe, That the ſame ſhall be to and for the uſe of the Repreſentatives of the freemen of theſe counties, which now are, and from time to time hereafter ſhall be duly elected by the freemen aforeſaid, at all times when in Aſſembly met, and to and for ſuch other uſes, intents and purpoſes, as the ſaid Repreſentatives, during the time they ſhall be ſo convened in Aſſembly, ſhall direct and appoint; and to and for the uſe of the Juſtices of the Supreme Court of this government, for the holding of ſaid court as long as the ſaid court ſhall from time to time be adjourned and continue; and at all other times, the ſaid ſtate-houſe, and the wings adjoining the ſame, for the uſe of the Juſtices of the County Court of Common Pleas and Juſtices of the Court of Quarter Seſſions for the ſaid county of New-Caſtle, for the holding courts therein, and to and for ſuch other uſes, intents and purpoſes, as they the ſaid Juſtices of the Court of Quarter Seſſions at the General Seſſions to be holden at New-Caſtle for the county of New-Caſtle on the third Tueſday in May *(a)* yearly and every year ſhall direct and appoint; and as to the Under Sheriff's and Gaoler's houſes, the gaol, work-houſe and yards, with the appurtenances, to the uſe of the Sheriff of the ſaid county of New-Caſtle for the time being, for the reſidence of himſelf, his Under-Sheriff and Gaoler, and for the ſafe cuſtody of all and every perſon and perſons to him legally committed, and for ſuch other purpoſes as the ſame have been uſually applied to, for the ſervice of the ſaid county: And upon this further truſt and confidence, and to this further end, intent and purpoſe, that the ſaid Thomas M'Kean, George Read, John M'Kinly, Alexander Porter, George Monro, John Evans and David Thompſon, and the ſurvivors and ſurvivor of them, and the heirs of ſuch ſurvivor, ſhall from time to time, and at all times hereafter, permit and ſuffer ſuch ſuit and ſuits, action and actions, to be commenced and proſecuted in his or their names, and alſo make, ſeal, deliver,

For the uſe of the Aſſembly,

Supreme Court,

Common Pleas and Quarter Seſſions.

Gaol, &c. for the uſe of the Sheriff of New-Caſtle county for the time being.

(a) See chap. 61, c. ſect. 6, paſſed February 7, 1794.

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deliver, execute and acknowledge, ſuch deed or deeds, conveyance or conveyances, fines, recoveries or aſſurances in the law whatſoever for the ſaid lot of land, buildings, tenements and hereditaments, ſettled and veſted in the ſaid Truſtees as aforeſaid, or any part or parcel thereof, to ſuch perſon or perſons, and in ſuch manner and form, but to the uſes aforeſaid, as the Juſtices of the Court of Quarter Seſſions for the county of New-Caſtle aforeſaid, ſhall at any time or times hereafter direct and appoint: So always, that the ſaid Thomas M'Kean, George Read, John M'Kinly, Alexander Porter, George Monro, John Evans and David Thompſon, and their heirs, executors and adminiſtrators, and every of them, be well and truly indemnified, ſaved and kept harmleſs of and from any coſts, charges, trouble or moleſtation whatſoever, which may ariſe for or by reaſon of ſuch ſuits, deeds, conveyances, fines, recoveries or aſſurances, ſo to be commenced, proſecuted, made and executed.

SECT. 2. *And whereas* another lot of land ſituate in the Market-ſquare in the town of New-Caſtle aforeſaid, and bounded as follows, *to wit*, Beginning at a ſtone placed for a corner on the ſouth-weſt ſide of Mary-ſtreet, being alſo the north-weſt corner of the grave-yard or burying-ground belonging to Immanuel Church, and extending from thence north forty-ſix degrees thirty minutes weſt five perches and three tenths of a perch to the ſtreet or road leading from Wilmington, leaving the ſaid ſtreet forty feet for width; thence along the ſame ſtreet or road ſouth forty-five degrees weſt ten perches to a ſtone placed for a corner; thence extending ſouth forty-ſix degrees, thirty minutes eaſt five perches and three-tenths of a perch to another ſtone placed for a corner; and from thence along the pale fence of the grave yard aforeſaid north forty-five degrees eaſt ten perches to the place of beginning, hath at all times been conſidered, taken and held, as ground dedicated and ſet apart for the uſe of the ſaid town; *And whereas* the inhabitants of the ſaid town intend to erect a ſchool-houſe thereon, and are deſirous of having the ſame appropriated and applied to that uſe; *Be it enacted by the authority aforeſaid*, That the ſaid lot of land laſt deſcribed, and all the

A piece of ground veſted in Truſtees for the uſe of a ſchool.

CHAP. CCXII. 1772.

the immunities, advantages, hereditaments and appurtenances to the ſame belonging, or in anywiſe appertaining, and the remainder and remainders, reverſion and reverſions thereof, ſhall, from and immediately after the paſſing of this act, be ſettled upon and veſted in David Finney, John Thompſon, George Read, Thomas M'Kean and George Monro, gentlemen, and the ſurvivors and ſurvivor of them, and the heirs and aſſigns of ſuch ſurvivor, in truſt nevertheleſs for the erecting a ſchool-houſe or ſchool-houſes thereon, and to be for that uſe forever.

Names of the Truſtees.

SECT. 3. *And whereas* another lot of ground ſituate alſo in the Market-ſquare, in the town of New-Caſtle, whereon Immanuel Church ſtands, and the grave yard or burying ground of the ſaid church is laid out, bounded as follows, *to wit*, Beginning at a corner ſtake of the herein before deſcribed ſchool-houſe lot, being alſo the north-weſt corner of the grave yard or burying ground belonging to Immanuel Church aforeſaid, on the ſouth-weſt ſide of Mary-ſtreet, and running thence ſouth forty-five degrees weſt ten perches along the line of the ſaid ſchool-houſe lot to another ſtake ſet for a corner; thence ſouth forty-ſix degrees eaſt ten perches and eight tenths of a perch to a poſt in the Market-ſquare; thence north forty-ſeven degrees eaſt ten perches to Mary-ſtreet aforeſaid; and thence along ſaid Mary-ſtreet north forty-ſix degrees thirty minutes weſt to the place of beginning, hath been and is now ſet apart and appropriated to and for the uſe of the members of the Epiſcopal Church of England, reſiding and dwelling in and about the ſaid town of New-Caſtle, who being deſirous that the ſame ſhould be forever hereafter confirmed to and for the uſes aforeſaid,

Immanuel Church and grave-yard veſted in Truſtees.

SECT. 4. *Be it enacted by the authority aforeſaid*, That the legal eſtate and inheritance of and in the ſaid church, burying ground and laſt deſcribed lot, with the appurtenances thereto belonging, ſhall be and is hereby declared to be from henceforth veſted in the reverend Æneas Roſs, Richard M'William and Joſeph Tatlow, and the ſurvivors and ſurvivor of them, and the heirs of the ſurvivor forever, in truſt nevertheleſs, to and for the uſe, benefit and behoof of the

Names of the Truſtees.

CHAP. CCXII. 1772.

members of the Epiſcopal Church of England, reſiding and hereafter to reſide in and about the ſaid town of New-Caſtle, as a place of worſhip and burial-ground forever, and to no other uſe, intent or purpoſe whatſoever.

The reſidue of the Market-ſquare veſted in Truſtees for the uſe of the inhabitants of New-Caſtle for ever.

SECT. 5. *And whereas* the remaining part of the aforeſaid Market-ſquare hath at all times been conſidered, taken and held as ground belonging to the inhabitants of the ſaid town of New-Caſtle for holding of fairs, markets and other public uſes, and a market-houſe hath accordingly been erected thereon at the charge of the ſaid inhabitants; *Be it enacted by the authority aforeſaid*, That from and after the paſſing of this act, the reſidue or remaining part of the ſaid Market-ſquare, not herein before ſettled on Truſtees, and all the immunities, improvements, advantages, hereditaments and appurtenances to the ſame belonging or in anywiſe appertaining, and the remainder and remainders, reverſion and reverſions thereof, ſhall be ſettled upon and veſted in David Finny, John Thompſon, George Read, Thomas M'Kean and George Monro, gentlemen, and the ſurvivors and ſurvivor of them, and the heirs and aſſigns of ſuch ſurvivor, in truſt nevertheleſs for the uſe of the inhabitants of the ſaid town of New-Caſtle forever.

Names of the Truſtees.

A public act.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That this act ſhall be deemed, adjudged and taken to be a public act, and ſhall be judicially taken notice of as ſuch by all judges, juſtices and other perſons whatſoever, without ſpecially pleading the ſame.

Paſſed June 13, 1772.

CHAP. CCXIII. a.

1772.

An ACT *for eſtabliſhing the market in the town of Newark, and for regulating the ſame.*

Preamble.

WHEREAS the honorable William Denny, eſq. Lieutenant Governor of the counties of New-Caſtle,

Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by letters-patent, under the Great Seal of the ſaid counties, bearing date the thirteenth day of April in the year of our Lord One Thouſand Seven Hundred and Fifty-eight, did grant unto James M'Mechen and others, inhabitants of the town of Newark, in Whiteclay-creek hundred, and county of New-Caſtle, liberty, power and authority, to hold two fairs, *to wit*, On the third Thurſday in the month of April and October annually for ever, and one market on the Thurſday of every week, with certain other privileges therein particularly mentioned. *And whereas* from the increaſe of inhabitants in the ſaid town two markets in the week are become neceſſary—*And whereas* the ſaid inhabitants have at all times hitherto given and paid the profits and emoluments ariſing from the letting of tents, booths and ſtalls, at the times of holding the fairs and markets in the ſaid town, unto the Truſtees of Newark academy for the public uſe and benefit of the ſaid academy in the ſaid town, and are deſirous of having the ſame ſecured to the ſame uſe in future; It is therefore prayed that it may be enacted,

SECTION 2. *And be it enacted by the honorable Richard Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame*, That from and after the publication of this act, there may and ſhall be two markets held weekly in the ſaid town of Newark, *to wit*, On every Tueſday and Friday, forever, and on no other day or days whatſoever.

Market days appointed.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons whatſoever ſhall preſume either to buy or ſell any kind of proviſions [fiſh, milk and bread, excepted] on market days within any other part of the ſaid town of Newark than in the market houſe of the ſaid town, under the penalty of forfeiting both by the buyer and ſeller all ſuch proviſions ſo ſold or bought, or the value thereof, to be levied together with coſts by the Clerk of the

No proviſions to be bought or ſold but in market, &c. except, &c.

Penalty.

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the Market of the ſaid town, by diſtreſs and ſale of the offenders goods and chattels, by warrant under the hand and ſeal of any one Juſtice of the Peace of the ſaid county of New-Caſtle, and to be paid to the Truſtees of Newark academy for the uſe of the ſaid academy.

How poor or unſound meat is to be diſpoſed of.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall preſume to bring or carry to the ſaid market, and ſell, or offer to ſale, any poor or lean meat or fleſh or carrion, or any other proviſion or proviſions, not ſound and wholeſome, every perſon ſo offending ſhall forfeit the ſame; if too poor or lean for ſale, to the uſe of the poor of Whiteclay-creek hundred; if unwholeſome or unſound to be burnt or otherwiſe deſtroyed.

Penalty on ſlaughtering in the market-houſe.

SECT. 5. *And be it enacted by the authority aforeſaid*, That no perſon or perſons whatſoever ſhall preſume to ſlay or kill any cattle, ſheep, calves or hogs within the ſaid Academy-ſquare or market-houſe in the ſaid town, on penalty of forfeiting the ſum of Five Shillings for every ſuch offence, to be levied, together with coſts as aforeſaid, and paid to the Truſtees aforeſaid for the uſe of the ſame academy.

Proviſions, &c. ſold by falſe weights, &c. ſhall be forfeited.

SECT. 6. *And be it enacted by the authority aforeſaid*, That if any perſon or perſons whatſoever ſhall by themſelves or others either ſell, or offer to ſale, any butter, cheeſe, tallow or any ſort of proviſions, by any falſe weights, or for more weight than the ſame ſhall be found to be, on trial by the Clerk of the ſaid market for the time being, upon complaint made to him, ſuch perſon or perſons ſhall for every ſuch offence forfeit ſuch butter, cheeſe, tallow, or proviſions ſo ſold, or offered to ſale, and the Clerk of the ſaid market is hereby impowered and required to ſeize the ſame, to be applied to the uſe of the poor of the ſaid hundred.

Meat to be ſold on Monday or Thurſday, except, &c.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons whatſoever ſhall preſume to hawk or carry about the ſaid town of Newark, or to expoſe to ſale in the market-houſe of the ſaid town, any fleſh meat on the Monday or Thurſday in each week, except in the month of June, July and Auguſt, on pain of forfeiting ſuch fleſh meat,

meat, or the value thereof, to be recovered in like manner as other forfeitures are herein before directed to be recovered by this act, and paid to the Truſtees aforeſaid for the uſe of the academy aforeſaid.

Bakers ſhall mark their bread.

SECT. 8. *And* for preventing frauds that may be committed by bakers of bread for ſale in the ſaid town of Newark, *Be it enacted by the authority aforeſaid*, That from and after the publication of this act all and every baker and bakers of bread for ſale, within the ſaid town of Newark, ſhall and are hereby directed and required to make or impreſs ſome mark, letter or name of ſuch baker or bakers on all ſuch bread as he, ſhe or they ſhall bake for ſale as aforeſaid, on penalty of paying for every ſuch neglect the ſum of Five Shillings, to the Truſtees aforeſaid for the uſe aforeſaid, and to be recovered in manner aforeſaid.

Penalty on neglect.

Clerk of the market his power.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That the Clerk of the ſaid market is hereby ſtrictly charged and commanded to put this act, and every part thereof, in execution, and impowered to demand, recover and receive, all ſuch penalties, fines and forfeitures as in this act are directed to be forfeited and paid; and to examine the weights and try the ſame for the purpoſes in this act before directed. And the ſaid Clerk is hereby directed and required to keep fair and juſt accounts of all fines, forfeitures and penalties, that he ſhall receive by virtue of this act, and ſettle ſuch accounts once in every year with the ſaid Truſtees, or ſuch perſon as they ſhall appoint, and pay to them all ſuch ſum and ſums of money as ſhall by him be received as aforeſaid and not herein otherwiſe appropriated.

Duty and qualification.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That the Clerk of the ſaid market before he ſhall preſume to enter upon the ſaid office, or execute the truſt repoſed in him, ſhall take an oath or affirmation before ſome Juſtice of the Peace of the ſaid county of New-Caſtle, *That he ſhall and will well and truly demean and behave himſelf in his ſaid office of Clerk of the Market aforeſaid, and impartially diſcharge the truſt repoſed in him by virtue of this act.*

SECT. 11. *And be it further enacted by the authority aforeſaid,*

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aforeſaid, That the Clerk of the ſaid market, for the time being, ſhall have the ſole and excluſive right of providing materials for, and building or ſetting up ſtalls, tents or booths within the ſaid town, and to hire or let the ſame at ſuch reaſonable rates as ſhall be fixed by the Truſtees of Newark academy aforeſaid in the market-houſe or elſewhere, at the time of holding fairs in the ſaid town, to ſuch perſons as may be willing to uſe or take them, and ſhall account for and pay to the Truſtees of the ſaid academy, for the uſe of the ſaid academy, all ſuch ſum and ſums of money as he ſhall from time to time receive for ſtalls, tents or booths ſo by him ſet up as aforeſaid.

He is likewiſe to build and hire the ſtalls, &c. at the fairs.

SECT. 12. *And* for preventing all uncertainty and diſputes that may ariſe touching or concerning the limits of the ſaid town of Newark; *Be it enacted by the authority aforeſaid*, That the lines and bounds herein after mentioned are and always hereafter ſhall be reputed, deemed, allowed and taken to be the boundaries and limits thereof, *That is to ſay*, Beginning at the junction of the public roads near an inn now known by the name of the ſign of Saint Patrick, and extending thence along the road leading to New-London townſhip, in Cheſter county, to a ſmall ſtream or run, and by the ſame ſtream or run to the mouth thereof, where it empties into Whiteclay-creek; and from thence down the ſaid creek to the moſt eaſterly line of the land now of Doctor Samuel Platt; and by the lines of the ſaid Samuel Platt and of land now of James Simpſon, to include the ſaid lands within the ſaid town, to the land now of David M'Mechen; and from the corner of the ſaid James Simpſon and David M'Mechen their land to the end of James Anderſon's lane, and thence by a right line to the place of beginning.

Boundaries of the town.

Paſſed June 13, 1772.

CHAP.

CHAP. CCXIV. a.

CHAP. CCXIV.

1772.

An ACT *for the repairing and keeping up the cauſeway, adjoining the creek called the Murther-kill, in Kent county.* Obſolete—The road leading thereto being ſince altered and laid out through the Village of Frederica.

CHAP. CCXV. a.

An ACT *for continuance of a former act, intituled,* A ſupplement to an act, intituled, An act for regulating fences within this government. *(a)*

1773.

WHEREAS an act of Aſſembly was made in the ninth year of the reign of his preſent Majeſty George the Third, intituled, *A ſupplement to an act, intituled, An act for regulating fences within this government,* to continue in force for the ſpace of three years, and from thence to the end of the next Seſſion of Aſſembly, and no longer; *Now* foraſmuch as it hath ſince by experience appeared, that the ſame is a beneficial law,

BE it enacted by the honorable Richard Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame, That the ſame act remain, continue and be perpetual from the end of this Seſſion of Aſſembly.

Paſſed April 12, 1773.

(a) For this ſupplement ſee before chap. 198. a.

CHAP. CCXVI. 1773.

CHAP. CCXVI. a.

A Supplementary ACT *to an act, intituled,* An act for limitation of actions, and proving accounts againſt the eſtates of perſons dying within this government.

Preamble.

WHEREAS by the act of Aſſembly, *(a)* to which this act is a ſupplement, made in the fifteenth year of his late Majeſty George the Second, it is declared and enacted, that perſons having right of entry into any lands, tenements or hereditaments, held from them, ſhall not thereinto enter, or maintain actions for recovery of ſuch right, after twenty years from the making of the ſaid act, or after their right ſhall firſt deſcend or accrue. *And whereas* there is no expreſs ſaving in the ſaid act made for perſons that were or ſhould be infants, *feme coverts, non compos mentis,* impriſoned or beyond ſea, at the time of ſuch right or title of entry deſcending or accruing to them. *And whereas* ſome doubts have ariſen, whether it was the intent and meaning of the Legiſlature, that the rights of ſuch perſons ſhould be ſaved during the time of ſuch their diſability; for the removal of which doubts,

SECTION 2. *BE it enacted by the honorable Richard Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if any perſon or perſons that hath, or ſhall have, ſuch right or title of entry, or that hath, or ſhall bring, his or their action or actions of or for any lands, tenements or hereditaments, whereunto he or they hath or have any title, or cauſe to have or purſue ſuch action or actions, were or ſhall be at the time of the ſaid right or title firſt deſcended, accrued, come

(a) Chap. 36. 2.

come or fallen, within the age of twenty-one years, *feme coverts*, *non compos mentis*, impriſoned or not within any of his Majeſty's dominions in America, that then ſuch perſon or perſons, and his and their heir and heirs, ſhall or may notwithſtanding the ſaid twenty years be expired, make his entry or bring his action; ſo as ſuch perſon or perſons, or his or their heir or heirs, ſhall within ten years next after his and their full age, diſcoverture, coming of ſound mind, enlargement out of priſon, or coming into any of his Majeſty's dominions in America, *(b)* take benefit of and commence the ſame, and at no time after the ſaid ten years. *(c)*

Infants, &c. may enter into their lands or bring actions within ten years after the impediments are removed.

SECT. 3. *And whereas* by the ſaid act, to which this act is a ſupplement, it is alſo declared and enacted, That all actions of treſpaſs *vi et armis*, *quare clauſum fregit*, all actions of detinue, trover, and replevin, for taking away goods or cattle, all actions upon account and upon the caſe, (other than accounts between merchant and merchant, their factors and ſervants, relating to merchandiſe, and other than actions upon the caſe for words) all actions of debt, grounded upon any lending or contract without ſpecialty, all actions of debt for arrearages of rent, (the proprietaries quitrent excepted) and all other actions of treſpaſs, other than for aſſault, battery, menace, wounding or impriſonment, ſhall be commenced and ſued within three years after the cauſe of ſuch actions or ſuits, and not after, which, upon experience, hath

Limitation of perſonal actions heretofore.

(b) Then including the continent of America, New Britain, or the country lying round Hudſon's Bay, Canada, or the province of Quebec, that which is now Upper and Lower Canada, New Scotland, otherwiſe Nova Scotia, then bounded by the river and gulph of St. Lawrence, the Atlantic Ocean, and by Canada and New England; all of the United States of America, and Eaſt and Weſt Florida, and of the iſlands, Newfoundland, Cape Breton and St. John's, in the gulph of St. Lawrence, the Bermuda iſles, the Bahama iſles, Jamaica, Barbadoes, St. Chriſtophers, Antigua, Nevis, Montſerrat, Barbuda, Anguilla, Dominica, St. Vincent, Granada, Tobago and Falkland iſlands.

(c) See alſo an additional ſupplementary act, chap. 40. c. paſſed June 19, 1793, declaring that no perſons ſhall make an entry into any lands, &c. but within twenty years after right or title deſcended or accrued, nor maintain any Writ of Right, or other action for, or make any preſcription or claim to, or in, any lands, &c. and alledge any ſeiſin, but only an actual one within twenty years; with a proviſo in favour of the perſons, at the time of paſſing the ſaid ſupplementary act, having a right of entry to bring ſuit within ten years thereafter; and a further proviſo in favour of an infant, Feme Covert, Non Compos Mentis, or a priſoner, for ten years after the removal of ſuch diſability, and of the heirs of ſuch as die under the ſaid diſabilities.

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been found to be too ſhort a time for a limitation of ſuch actions; For remedy thereof in future,

in what time they are to be commenced in future.

SECT. 4. *Be it enacted by the authority aforeſaid*, That the ſaid actions of treſpaſs *vi et armis*, *quare clauſum fregit*, and the ſaid actions of detinue, trover and replevin, for taking any goods or cattle, and the ſaid actions upon account, and upon the caſe, other than ſuch accounts as concern the trade of merchandiſe between merchant and merchant, their factors and ſervants, and other than actions upon the caſe for words, and the ſaid actions of debt grounded upon any lending or contract without ſpecialty, and the ſaid actions of debt for arrearages of rent, (the proprietaries quitrent excepted) and the ſaid other actions of treſpaſs, except for aſſault, battery, wounding and impriſonment, ſhall be commenced and ſued within ſix years next after the cauſe of ſuch actions or ſuits, and not after. *(d)*

Saving to minors, &c.

SECT. 5. *Provided always nevertheleſs*, That if any perſon or perſons, who is or ſhall be entitled to any ſuch actions of treſpaſs, other than as aforeſaid, actions of detinue, trover, replevin, actions of account and upon the caſe, other than as aforeſaid, and actions of debt, other than as aforeſaid, are or at the time of any cauſe of ſuch action given or accrued, fallen or come, ſhall be within the age of twenty-one years, *feme covert*, *non compos mentis*, impriſoned or out of this government; that then and in ſuch caſe, ſuch perſon or perſons ſhall be at liberty to bring the ſame actions ſo as the ſame be brought within three years

(d) By another additional ſupplementary act, chap. 248. b. paſſed Feb. 4, 1792. every of the actions enumerated in this ſection (other than actions between merchant and merchant, their factors and ſervants, relating to merchandiſe) are to be, and may be, ſued within three years after the cauſe of action ſhall accrue, and not after; with a ſaving in ſect. 2. to Minors, Feme Coverts, perſons Non Compos Mentis, impriſoned, beyond ſea, or out of this ſtate, and for one year after ſuch diſability removed. And in ſect. 7, of all actions or cauſes of actions ariſen or accrued before the paſſing of the ſame act of chap. 248. b.—And in ſect. 3, as to perſons againſt whom any of the cauſes of action aboveſaid do ariſe who may be out of the ſtate at the time thereof, or after before the time of bringing the ſame be expired, three years are given next after their return. By a ſupplement to ſaid chap. 248. b. to wit, chap. 35. c. paſſed June 18, 1793, it is declared "that nothing in the ſaid chap. 248. b. ſhall extend to any intercourſe of traffic between merchant and merchant, according to the uſual courſe of mercantile buſineſs, nor to any demands founded on mortgages, bonds, bills, promiſſory notes or ſettlements under the hands of the parties concerned."

years *(e)* next after their coming to or being of full age, diſcoverture, of ſound memory, at large, or returning into this government.

Saving to perſons beyond ſea.

SECT. 6. *And* if any perſon or perſons, againſt whom any of the cauſes of action herein before mentioned do ariſe, ſhall at the time of the cauſe of ſuit or action ariſing, or afterwards before the time of bringing ſuch action be expired, be beyond the ſeas, or go out of this government, then the perſon, entitled to ſuch ſuit, may bring an action after the return of ſuch perſon, ſo as he bring the ſame within three years after the return.

Accounts againſt perſons deceaſed which ſhall be due ſix years next before their death, ſhall not be proved or paid, unleſs, &c.

SECT. 7. *And be it enacted by the authority aforeſaid*, That no perſon or perſons whatſoever, who do or ſhall keep regular books of accounts, ſhall be admitted to prove or require payment of any account or demand againſt the eſtates of perſons dying within this government, if ſuch account or demand ſhall appear to be older or of any longer ſtanding than ſix years next before the death of ſuch perſon or perſons ſo dying or deceaſed as aforeſaid; ſaving the rights of infants, *feme coverts*, perſons inſane, impriſoned or out of this government, until ſuch impediments ſhall be removed, and until three years next after: And if any executor, whoſe teſtator ſhall not have made proviſion in his laſt will for the payment of his debts, or adminiſtrator, ſhall pay any ſuch account, no allowance ſhall be made to him therefor in his adminiſtration account when ſettled before any Orphans Court, or other juriſdiction having cognizance thereof within this government. *(f)*

Repeal of former act ſo far as altered hereby.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That ſo much of the ſaid herein before recited

(e) One year in chap. 248. b. ſect. 2.

(f) See ſaid chap. 248. b. other proviſion made, that no perſon not keeping a day-book, or regular book of accounts, ſhall be admitted to prove or require payment of any account of longer ſtanding than one year againſt the eſtate of any perſon dying within the ſtate, or if it conſiſt of many particulars, unleſs every charge therein ſhall have accrued within three years next before the death of the deceaſed, and unleſs the truth and juſtice thereof ſhall be made appear by one ſufficient witneſs; and, in caſe of a regular book of accounts, unleſs ſuch account ſhall have accrued or ariſen within three years before the death of the deceaſed perſon: With a ſaving in ſect. 6. of the rights or demands of infants, Feme Coverts, perſons of inſane memory, impriſoned or out of the ſtate, ſo that their accounts be proved, and their claims proſecuted within one year after the removal of ſuch diſability: And in ſect. 7. a ſaving alſo as to accounts ariſen before the paſſing of the ſame act.

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ed act of Aſſembly, intituled, *An act for limitation of actions, and proving accounts againſt the eſtates of perſons dying within this government*, as is hereby altered, contradicted or ſupplied, ſhall be repealed and become null and void; and that all other parts of the ſame act, ſhall remain, continue and be in as full force and virtue as if this act had never been made.

Paſſed April 12, 1773.

CHAP. CCXVII. a.

1773. *An* ACT *to repeal ſo much of an act, intituled, "An act for regulating and eſtabliſhing fees," as relates to the impoſing a fine of Six-pence on defaulting jurors.* Repealed in chap. 191. b. ſect. 28. February 3, 1789.

CHAP. CCXVIII. a.

1773. *A Supplementary* ACT *to an act, intituled,* A Supplement to an act of this government, intituled, An act for the better confirmation of the owners of lands, &c. in their juſt rights and poſſeſſions.

Preamble. WHEREAS by the act of Aſſembly, paſſed in the ſeventh year of his late Majeſty, intituled, *A ſupplement to an act of this government, intituled, An act for the better confirmation of the owners of lands,* &c. *in their juſt rights and poſſeſſions,(a)* or by any other law of this government, there is not any expreſs proviſion made, how or in what manner the private examination of any *feme covert* named as a grantor, bargainor or donor, in ſuch grants, bargains and ſales, mentioned in the ſaid act, for conveying lands within this government, belonging to ſuch *feme covert* in her own right, where

(a) For this ſee chap. 60. a, ſect. 9.

where ſhe reſides out of the county in which ſuch lands lie, ſhall be ſo taken: For remedy whereof,

SECTION 2. *BE it enacted by the honorable Richard Penn, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame,* That all grants, bargains or ſales, heretofore or hereafter to be made and executed by huſband and wife, of the lands belonging to the wife in her own right, lying within any of theſe counties, where the huſband and wife do not reſide within the county in which ſuch lands are, the examination of ſuch *feme covert* apart from her huſband, being taken in the manner directed by the ſaid act (whereto this is a ſupplement) before any of the Juſtices of the Court of Common Pleas, or any Mayor, Chief Magiſtrate or officer of the city, town or county, where ſuch grants, bargains or ſales, are or ſhall be made and executed, and certified under the common or public ſeal of ſuch city, town or county, ſhall be as valid and effectual in law, as if the ſame had been taken and certified by ſome judge or juſtice of the court where ſuch deed ſhall be acknowledged; any law, uſage or cuſtom to the contrary notwithſtanding.

Feme Covert being privately examined before any Juſtice of the Court of Common Pleas, &c. where they reſide, may grant their lands in theſe counties.

Paſſed April 12, 1773.

CHAP. CCXIX. a.

An ACT *to prevent counterfeiting the paper money of other Colonies.*—Obſolete. 1773.

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CHAP. CCXX. a.

An ACT *for erecting a bridge and cauſeway over Lewes Creek, from the town of Lewes to the Cape-ſide of the ſaid creek, in the county of Suſſex.(a)*

WHEREAS many inconveniencies would be prevented, and great benefit would ariſe to the inhabitants of the town of Lewes, in the county of Suſſex, and to the public in general, if a bridge was built acroſs the creek at Lewes-town aforeſaid: Therefore,

SECTION 1. *BE it enacted by the honorable John Penn, eſq. (b) with his Majeſty's royal approbation, Governor and Commander in Chief, of the counties of New-Caſtle, Kent and Suſſex, on Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame,* That John Rodney, Henry Fiſher and Henry Neil, of the town of Lewes aforeſaid, gentlemen,(c) are hereby nominated, authoriſed and empowered, to build and erect a bridge and cauſeway over the creek at Lewes-town, formerly called the Whore-kill, to begin at or near the place where the fort in the ſaid town ſtood, and thence extending in a ſtraight direction to the point of faſt land on the cape ſide of the ſaid creek, nearly oppoſite to the houſe now in the occupation of William Arnald; and alſo to erect, build and make, all proper and neceſſary abutments, wings, banks, ways and other works for the uſe, ſupport and preſervation of the ſaid intended bridge and cauſeway.

Three perſons appointed to build a bridge over Lewes-creek;

place where.

SECT. 2. *And* for the the better procuring a ſufficient

(a) For the ſeveral ſupplementary acts hereto, ſee chap. 223. a. paſſed March 29, 1775. chap. 225. b. paſſed January 29, 1791, chap. 52. c. paſſed January 28, 1794. and chap. 110, c. paſſed Feb. 9, 1796.

(b) John Penn, eſquire, came a ſecond time into the government in 1773, and continued until the declaration of independence, July 4, 1776.

(c) See ſaid chap. 52. c. appointing David Hall and Caleb Rodney, in the place of the ſaid John Rodney and Henry Fiſher, then deceaſed, and authoriſing the Judges of the Court of Quarter Seſſions for the county of Suſſex to ſupply future vacancies.

cient ſtock of money for building the ſaid bridge and cauſeway, *Be it enacted by the authority aforeſaid*, That the ſaid Commiſſioners, or the ſurvivors, or ſurvivor of them, be and are hereby authoriſed, empowered and enabled, to receive of, and from, any perſon or perſons, any ſum or ſums of money, which have been, or hereafter ſhall be, ſubſcribed and given for and towards defraying the charge and expence of building the bridge and cauſeway aforeſaid; provided the ſame do not in the whole exceed the ſum of One Thouſand Pounds; and to apply the ſame to and for the erecting and building the ſaid bridge and cauſeway with all convenient ſpeed, and to no other uſe or purpoſe whatſoever.

Fund to be obtained by ſubſcription.

SECT. 3. *And be it enacted by the authority aforeſaid*, That in the deepeſt part of the channel of the ſaid creek,*(d)* there ſhall be left clear the ſpace of ſixteen feet at leaſt, over which ſhall be erected and placed a draw or platform, of the breadth of eight feet or more, with good and ſufficient chains for raiſing up the ſame for the accommodation of all ſuch perſons as have occaſion to paſs and repaſs with any veſſel through the ſaid bridge, who are hereby obliged carefully to raiſe and lower the ſaid draw-bridge, ſo as the ſame receive no damage thereby, under the penalty of Ten Shillings, for every neglect or offence therein, together with the expence of repairing and amending the ſaid bridge, to be recovered, with coſts, in the name of the Treaſurer of the county for the time being, before any two Juſtices of the Peace of the ſaid county, and applied to the uſe of the ſaid bridge.

Paſſage for veſſels in the channel, &c. to be left with a draw or platform to be erected over it.

SECT. 4. *And*, for the providing a fund to maintain and ſupport the ſaid bridge and cauſeway when erected, and for defraying any arrears that may be due for building the ſame, *Be it enacted by the authority aforeſaid*, That the Juſtices of the Court of Quarter Seſſions for the ſaid county of Suſſex ſhall, and are hereby empowered and required to appoint from time to time,

Juſtices of the Seſſions to appoint a Collector of toll for paſſing ſaid bridge.

(d) See after in chap. 225. s. proviſion made for opening a channel along the ſouth-weſt ſide of the ſaid creek, and for placing the draw or platform over the ſame.

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time, ſo often as there ſhall be occaſion, ſome fit and proper perſon Collector, *(e)* to demand, take and receive pontage or toll, according to the rates following; *That is to ſay*, For every ſingle horſe and rider, Three-pence; for every led horſe, ox, cow or heifer, One penny; for every foot-paſſenger, One penny; for every ſheep and hog, One penny; for a coach or other four wheeled carriage with a pair of horſes and riders, Nine-pence; for a chaiſe or chair with one horſe and the riders, Four-pence; with two horſes and riders, Six-pence; for a cart or waggon, loaded, and horſes or oxen, One Shilling; empty cart or waggon and horſes or oxen, Four-pence. *(f)*

Rates fixed.

Such as ſubſcribe Three Pounds to be exempted from toll.

SECT. 5. *Provided always*, That no pontage or toll ſhall be exacted or demanded of or from any perſon who ſhall ſubſcribe and pay toward erecting and building the ſaid bridge and cauſeway the ſum of Three Pounds and upwards; *(g)* and that all poor perſons of the ſaid county, exempted from the payment of public rates and levies, ſhall have liberty to paſs and repaſs toll-free.

Liſt of ſubſcribers to be lodged with Clerk of the Peace.

SECT. 6. *And* in order to aſcertain the ſubſcribers exempted from toll as aforeſaid, *It is hereby enacted*, That the ſaid Commiſſioners, or the ſurvivors or ſurvivor of them ſhall, as ſoon as the ſaid bridge and cauſeway are built, certify and return, into the Court of Quarter Seſſions of the ſaid county of Suſſex, true liſts of the names of the ſubſcribers, with the reſpective ſums of money received from them annexed; which liſts ſhall be lodged with the Clerk of the Peace, who is hereby required to give certified copies to ſuch as may demand the ſame.

Penalty on Collector taking greater rate than herein preſcribed.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That if the perſon to be appointed Collector of the pontage or toll aforeſaid ſhall exact or demand any greater or other rates or prices for paſſing over

(e) This power of appointing a Collector of the Pontage is veſted in the Commiſſioners in chap. 52. c.

(f) See after in chap. 223. a. ſect. 3. additional rates preſcribed.

(g) See further regulations as to the toll from ſubſcribers in chap. 223. a. ſect. 4. and in chap. 225. b. ſect. 3.

over the ſaid bridge than what are herein before preſcribed and limited, he, ſhe or they, ſo offending, ſhall forfeit and pay the ſum of Five Pounds, lawful money of this government, for every ſuch offence; one moiety thereof to the Treaſurer of the county, for the time being, for the maintaining and ſupporting the ſaid bridge and cauſeway, and the other moiety thereof to the party grieved; to be recovered by action of debt, bill, plaint or indictment, in any Court of Record in the ſaid county of Suſſex.

Collector to account with Treaſurer once, &c.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That the ſaid Collector ſhall, once in twelve months at leaſt, pay unto the County Treaſurer all ſuch ſums of money as he ſhall have then received by virtue of this act, retaining thereout ſo much as ſhall be ſtipulated between him and the Juſtices of the Quarter Seſſions aforeſaid for his ſervice in receiving the ſame, and the Treaſurer ſhall give receipts to the Collector for what he ſhall ſo bring in and pay from time to time; which receipts ſhall be the Collector's diſcharge for ſo much: *And* that the ſaid Treaſurer ſhall, from time to time, ſignify in writing to the Juſtices of the Court of Quarter Seſſions of the ſaid county, how much the Collector brings in and pays as aforeſaid; and when the ſaid Collector is negligent or refuſes to do his duty in the premiſes, the Treaſurer is hereby required to ſignify the ſame, by way of complaint to the juſtices aforeſaid.

Treaſurer to keep a diſtinct account of monies by him received and paid,

SECT. 9. *And be it further enacted by the authority aforeſaid*, That the Treaſurer of the county for the time being, ſhall keep a diſtinct book, containing a particular account of all the monies that ſhall come into his hands by virtue of this act, as alſo of all diſburſements and payments made by order of the Juſtices in their Court of Seſſions, who are hereby authoriſed and required to direct the application of the ſaid monies, as well for the maintenance and ſupport of the ſaid bridge and cauſeway from time to time, as for defraying any arrears that may be due for building the ſame. (g) *And* the Treaſurer ſhall be allowed for his

Allowance to Treaſurer;

(g) See chap. 225. b. directing the appropriation of the toll ariſing from the ſaid bridge and cauſeway to the ſole uſe and benefit of the ſubſcribers and Commiſſioners,

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his trouble, Four Pounds for every Hundred Pounds ſo by him received and paid, and ſo in proportion for any greater or leſſer ſum of money, to be allowed him at ſettling his accounts as is hereafter directed. *And* when the ſaid county Treaſurer ſhall be removed from his office or die, the ſaid books and balance of monies then in his hands ſhall be delivered up and paid to the ſucceeding Treaſurer.

books to be delivered up on his death, &c.

Commiſſioners and Treaſurer to account with three perſons to be appointed by Levy Court.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That the Commiſſioners aforeſaid, or the ſurvivors or ſurvivor of them, after the ſaid bridge and cauſeway are finiſhed and compleated, and the Treaſurer, for the time being, yearly and every year, after any monies have come into his hands by virtue of this act, ſhall render and make report of their proceedings and tranſactions in the premiſes aforeſaid to the Levy Court of the county of Suſſex, who ſhall nominate and appoint, out of their own number, three fit perſons to ſettle accounts with the ſaid Commiſſioners and Treaſurer, who are hereby required to lay before them the true and juſt ſtate of all the accounts relating to the ſaid bridge and cauſeway in their hands, which three perſons or two of them ſhall proceed to adjuſt and ſettle the ſaid accounts, and make report to the next Court of Appeal after their appointment as aforeſaid; which ſettlement, when ſo made, ſhall be ſigned or ſubſcribed by the parties aforeſaid, and then received and filed among the papers of the ſaid court. And if after ſuch ſettlement any balance of monies ſhall be in the hands of the ſaid Commiſſioners, or any of them, the ſame ſhall be paid over to the Treaſurer of the county, for the time being, to be applied and accounted for as other monies coming into his hands by virtue of this act.

Collector to give bond, &c.

SECT. 11. *And be it further enacted by the authority aforeſaid*, That the Collector of the toll or pontage ſhall, before he enters upon the execution of his office,

for paying off all arrears due on account of the ſame bridge and cauſeway, and reimburſing ſuch perſons as may advance monies to the erecting and finiſhing the ſame on additional ſubſcriptions, &c.—And chap. 52. c. authoriſing the Commiſſioners to apply the collected toll to the uſes aforeſaid; and by chap. 110. c. to the keeping of the ſame bridge and cauſeway in repair.

fice, give bond to the Juſtices of the Court of Quarter Seſſions, with ſuch ſecurity as ſhall be required, in the name of the Treaſurer of the county, for the faithful performance of the truſt repoſed in him by this act. And if the ſaid Collector ſhall at any time after refuſe or neglect to do his duty, or ſhall happen to remove out of the ſaid town of Lewes, or die, the juſtices of the court aforeſaid ſhall in every ſuch caſe appoint another to act in his ſtead.

Appointment in caſe of his death, &c.

Paſſed November 6, 1773.

CHAP. CCXXI. a.

An ACT *for the encouragement of the owners of mills within this government, and for the repealing of an act of Aſſembly, intituled,* An act to encourage the building of good mills in this government, *and the ſupplement thereto, paſſed in the thirty-fourth year of his late Majeſty's reign.*

1771.

SECTION 1. BE *it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That if any owner or owners of a mill, already built or hereafter to be built within this government, ſhall conceive him, her or themſelves, to be injured or aggrieved by any mill-race, mill-dam or mill-pond, hereafter to be made by any other perſon or perſons, upon the petition of ſuch owner or owners, or guardians of minor owners, to the County Court of Common Pleas, ſetting forth the ſame, the Juſtices of the ſaid Court ſhall iſſue a writ to the Sheriff of the county, commanding him to ſummon a jury of twelve honeſt and lawful men to go with him and view the premiſes in the preſence of the parties intereſted, if they will attend upon notice given them by the Sheriff

Any perſon erecting a mill-dam, &c. to the injury of another, to pay ſuch damages as a jury ſhall aſſeſs.

CHAP. CCXXI. 1773.

riff for that purpoſe, and to appear before the Juſtices of the next County Court of Common Pleas, when and where they ſhall, upon their oaths or affirmations reſpectively, after hearing the proofs and allegations of the parties, by their verdict, ſay and determine whether any, and what damages and loſs the perſon or perſons ſo complaining has or have ſuſtained by reaſon or means of the ſaid race, dam or pond: And the juſtices of the ſaid court ſhall give judgment for or againſt the perſon or perſons petitioning according to the ſaid verdict, with coſts, and may iſſue an execution thereupon for the damages and coſts or for coſts only, as the caſe may require; to be levied by the Sheriff on the goods and chattels, lands and tenements of the perſon or perſons againſt whom the judgment ſhall be given as aforeſaid. But if the ſaid jury ſhall be of opinion, that the race, dam or pond, made as aforeſaid, is ſo injurious to any mill above or below it, that ſuch race, dam or pond, ought not to continue, they ſhall by their verdict ſay ſo; and thereupon the juſtices of the ſaid court ſhall adjudge and decree, that the erector or maker of any ſuch dam or race ſhall pull down ſuch dam, or ſtop ſuch race, as the caſe may require, ſo that the water may flow freely in the ſame courſe, that it might or could have done before the erecting or making ſuch dam or race. And if the erector or maker of ſuch dam or race will not comply with ſuch judgment or decree, the ſaid court may and are hereby required to enforce obedience to the ſame, by impriſoning the perſon or perſons ſo refuſing or neglecting to comply therewith, and may and ſhall order the ſame dam to be proſtrated, or race to be ſtopped, by the party or parties injured as aforeſaid.

but if ſo injurious as it ought not to continue, to be pulled down, &c.

Time limited for petitioning.

SECT. 2. *Provided always* That the perſon or perſons aggrieved in manner aforeſaid do prefer their ſaid petition within ſix years from the time of the injury or damage done to him, her or them, as aforeſaid, and not after; *Saving* the rights of infants, *femes covert*, perſons *non compos mentis*, impriſoned or out of this government, ſo as they exhibit their petition within one year after the impediments aforeſaid are removed.

Saving to minors, &c.

SECT. 3. *And be it enacted by the authority aforeſaid,*

ſaid, That the aforeſaid act of Aſſembly, intituled, *An act to encourage the building of good mills in this government*, and the ſupplement to ſaid act, paſſed in the thirty-fourth year of his late Majeſty's reign, *(b)* and every clauſe, matter and thing in the ſame contained, after the tenth day of May next, ſhall and are hereby declared to be repealed.

Repeal of former acts.

Paſſed November 6, 1773.

CHAP. CCXXII. a.

An ACT *for making perpetual a former act, intituled*, An act for the amending the laws relating to teſtamentary affairs, and for the better ſettling inteſtates eſtates, *except ſuch parts thereof as are hereby altered and amended.*

1773.

WHEREAS an act of Aſſembly was made in the ſixth year of the reign of his preſent Majeſty George the Third, intituled, *An act for amending the laws relating to teſtamentary affairs, and for the better ſettling inteſtates eſtates*, *(a)* to continue in force for the ſpace of ſeven years, and from thence to the end of the next Seſſion of Aſſembly, and no longer; *Now* foraſmuch as it hath ſince been found by experience, that the ſame is in general a beneficial law,

Preamble.

SECTION 2. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief, of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame*, That the ſame act, ſubject to the additions and alterations herein after mentioned, ſhall remain, continue and

Former act made perpetual, ſubject to the additions and alterations herein.

(b) Chapters 23. a. 172. a. for both of which ſee appendix.

(a) Ante chap. 186. a.

CHAP. CCXXII. 1773.

and be perpetual from the end of this Seſſion of Aſſembly.

Right of acceptance on a valuation being in a minor, the next in order of age, to take, &c.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That where any valuation ſhall be made of the lands and tenements of any inteſtate, and the perſon intitled to the preference in taking the ſame at ſuch valuation, by the act for the better ſettling inteſtates eſtates, and the act before mentioned, ſhall at the time of ſuch valuation returned to the court, be under the age of twenty-one years, then and in ſuch caſe the perſon next in order of ſucceſſion, who is of age, may and ſhall have liberty to accept the ſame, complying with the directions of the acts aforeſaid.

Diſtribution of lands among collaterals, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That where any man ſhall die inteſtate, being owner of any real eſtate within this government, leaving children by different venters, or any woman ſhall die inteſtate, being owner of any real eſtate as aforeſaid, leaving children by different fathers, and any of the aforeſaid children ſhall afterwards die inteſtate without iſſue, that the real eſtate of ſuch child ſo dying, which came from the common parent, may and ſhall be diſtributed as follows: *That is to ſay*, One moiety thereof to the widow of the inteſtate, if any, during her natural life, and the reſidue thereof equally to and amongſt all the brothers and ſiſters of the deceaſed, or their legal repreſentatives, both of the whole and half blood, being the iſſue of the ſame parent from whom the ſaid eſtate came; and in caſe there be none ſuch, then to and amongſt the other brothers and ſiſters, or their legal repreſentatives; and in caſe there be none ſuch, then the ſaid reſidue ſhall go equally to every of the next of kindred, in equal degree, of the inteſtate and thoſe who legally repreſent them. *And* that the lands, tenements and hereditaments, acquired in any other manner by any perſon or perſons dying inteſtate, and having no child or children, nor any legal repreſentatives of them, ſhall be allotted and diſtributed as follows; *That is to ſay*, One moiety thereof to the widow of the inteſtate during her natural life, and the reſidue thereof equally to and amongſt the brothers and ſiſters of the whole blood to the deceaſed, or their legal repreſentatives; and in caſe there

Whole and half blood when to take equally;

when not.

be

be no brothers or ſiſters of the whole blood, or legal repreſentatives of them, then the ſaid reſidue ſhall be diſtributed equally to and amongſt the brothers and ſiſters of the half blood of or unto the inteſtate, or their legal repreſentatives; and in caſe there be none ſuch then the ſaid reſidue ſhall go equally to every of the next of kindred, in equal degree, of the inteſtate, and thoſe who legally repreſent them.

Executors or adminiſtrators to file accounts with Clerks of Orphans Courts three months before ſettlement;

SECT. 5. *And*, for the better ſettling the accounts of executors and adminiſtrators in the Orphans Courts, *Be it further enacted by the authority aforeſaid*, That every executor or adminiſtrator ſhall file the account, which he intends to exhibit to the ſaid court, with the Clerk thereof, at leaſt three months next before the ſame is ſettled, for the inſpection of all perſons intereſted; and that every account, that has not been ſo filed, which ſhall be ſettled in the ſaid courts from and after the firſt day of May next, may be reviewed, and ſhall remain open to a further examination in the ſame courts for ſix months next after. *(b)*

or ſubject to a reviſion for ſix months after.

SECT. 6. *And whereas* by the act of Aſſembly, intituled, *An act for eſtabliſhing Orphans Courts*, an appeal is given from any definitive ſentence or judgment of the Orphans Courts to the Governor for the time being, in equity, *(c)* which has been found inconvenient, *Be it therefore enacted by the authority aforeſaid*, That from and after the publication of this act, any perſon or perſons, aggrieved by any order, ſentence or decree, of any Orphans Court, may appeal from the ſame to the Supreme Court of this government, and not elſewhere; *(d)* the perſon ſo appealing giving ſecurity to proſecute the ſaid appeal with effect, within twelve months after ſuch appeal.

Appeal given to Supreme Court.

Paſſed November 6, 1773.

CHAP.

(b) Other proviſion made for ſettling thoſe accounts by and before the Regiſter of the county, with an appellate juriſdiction to the Orphans Court, in art. 6. ſects. 15, 16. of the conſtitution of June, 1792.

(c) For which ſee before chap. 30. a. ſect. 8.

(d) Such appeal alſo provided in caſes where the Orphans Court has original juriſdiction in ſaid art. 6. ſect. 15. of the conſtitution of June, 1792.

CHAP. CCXXIII.

1775.

CHAP. CCXXIII. a.

A Supplement to an act, entituled, An act for erecting a bridge and cauſeway over Lewes-creek, from the town of Lewes to the cape ſide of the ſaid creek, in the County of Suſſex. *(a)*

Preamble.

WHEREAS it is apprehended that the turning the channel of Lewes-creek, in the county of Suſſex, from the place where it now runs, at and near the bridge, in part erected over the ſaid creek at Lewes Town, to the ſouthweſt ſide of the ſaid creek, near the faſt land, would be a beneficial improvement; and that the pontage allowed to be paid by an act of General Aſſembly, intituled, *An act for erecting a bridge and cauſeway over Lewes-creek, from the town of Lewes to the cape ſide of the ſaid creek, in the county of Suſſex*, will not be ſufficient for the maintaining and ſupporting the bridge and cauſeway now erecting by virtue of the ſaid act; and that ſubſcribers for the building ſaid bridge are not ſufficiently encouraged;

SECTION 1. *BE it therefore enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That it ſhall and may be lawful, to and for the Commiſſioners nominated and appointed by the ſaid act, to erect and build the bridge and cauſeway aforeſaid, or any two of them, to cut, or cauſe to be cut, a canal of the width of ten feet, and the depth of two feet, from the ſouthweſt channel of Lewes-creek aforeſaid, adjoining a ſmall iſland called Kollock's Iſland, as ſtraight as conveniently may be near the ſouthweſt ſhore of ſaid creek, until it paſſes

Channel to be cut on ſouth-weſt ſide of Lewes-creek.

(a) See before chap. 220. a. the original act—and for other ſupplementary acts thereto ſee chap. 225. b. paſſed Jan. 29, 1791.—chap. 52. c, paſſed Jan. 28, 1794.—and chap. 110. c, paſſed Feb. 9, 1796.

CHAP. CCXXIII. 1775.

paſſes through the place where a paſſage of ninety feet is left between two abutments of the bridge now erecting, and from thence in ſuch direction into the preſent channel of the ſaid creek, below the aforeſaid bridge, as they ſhall judge moſt proper and convenient for terminating the ſame; and when the ſaid canal is ſo cut in manner aforeſaid, they the ſaid Commiſſioners, or any two of them, are hereby authoriſed and impowered to ſtop and fill up the preſent channel of the ſaid creek on the cape ſide thereof, and to continue the cauſeway now erecting a-croſs the ſame, any thing in the ſaid act to the contrary notwithſtanding: And alſo, if they ſhall find it neceſſary and convenient, they are hereby impowered and authoriſed to ſtop the ſaid channel at the upper end of Shankland's Iſland to the cape, and that ſmaller channel ſituate between White's and Kollock's iſlands, for the purpoſe of more readily conveying the waters of the ſaid creek into the canal to be cut in manner aforeſaid.

Channel on the cape ſide to be ſtopped.

Sect. 2. *Provided always*, That there ſhall be left clear in the place where the ſaid canal is to paſs, between the abutments of the ſaid bridge the ſpace of ninety feet at all times, for the waters of the ſaid creek to paſs through, excepting the piles neceſſary for ſupporting the ſaid bridge; and that there ſhall be left between the rows of ſaid piles the clear ſpace of ſixteen feet at leaſt; over which ſhall be erected and placed a draw or platform of the breadth of eight feet or more, with good and ſufficient chains for raiſing up the ſame, for the accommodation of all ſuch perſons as have occaſion to paſs and repaſs with any veſſel through the ſaid bridge; who are hereby obliged carefully to raiſe and lower the ſaid drawbridge, ſo as the ſame receive no damage thereby, under the penalty of Ten Shillings for every neglect or offence therein, together with the expence of repairing and amending the ſaid bridge; to be recovered, with coſts, in the name of the Treaſurer of the county for the time being before any two Juſtices of the Peace of the ſaid county, and applied to the uſe of the ſaid bridge.

Drawbridge to be placed over the South-Weſt channel.

Sect. 3. *And be it further enacted by the authority aforeſaid*, That the perſon appointed to collect the

Additional toll.

CHAP. CCXXIII. 1775.

pontage or toll, for paſſing the bridge aforeſaid, may and ſhall demand, take and receive, the additional rates or toll following, more than what is already allowed by the ſaid act *(b) to wit*; for every ſingle horſe and rider, One penny; for every foot paſſenger, One penny; for every led horſe, ox, cow or heifer, One penny; for a coach, or other four wheeled carriage, with a pair of horſes and riders, Nine-pence; for a cart or waggon loaded, and horſes or oxen, Six-pence; for a chaiſe or chair, with one horſe and the riders, Four-pence; with two horſes and riders, Six-pence; and for an empty cart or waggon, and horſes or oxen, Two-pence.

Who exempt from toll.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That no pontage or toll ſhall be demanded and knowingly taken of or from the wife, or children, or ſervants of any perſon who hath ſubſcribed and paid, or ſhall hereafter ſubſcribe and pay towards the erecting the aforeſaid bridge and cauſeway, the ſum of Three Pounds or upwards; *(c)* or of or from the ſervant or ſervants of any ſuch wife or children, during the life of ſuch ſubſcriber, or for twenty years from and after the paſſing of this act, under the penalty of Twenty Shillings for every ſuch offence, to be recovered, with coſts, and applied in manner as by this act is before directed with reſpect to perſons doing damage to the draw of the aforeſaid bridge.

SECT. 5. *Provided always*, That all and every other part of the ſaid act of Aſſembly, for erecting a bridge and cauſeway over Lewes-creek, *&c.* ſhall be and continue in full force, ſave only thoſe parts which by this preſent act are altered and ſupplied.

Paſſed March 29, 1775.

CHAP.

(b) Ante chap. 220. a. ſect. 4.

(c) See before in chap. 220. a. ſect. 5. and ſee after in chap. 225. b. ſect. 3.

CHAP. CCXXIV.

1775.

CHAP. CCXXIV. a.

An ACT *for the easing ſcrupulous conſciences, in the mode of taking an oath.*

Preamble.

WHEREAS there are ſome perſons who declare they cannot take an oath by laying the right hand upon the book, and kiſſing the ſame in the manner now uſed, for conſcience ſake, and yet are willing to take an oath in another mode, and to ſerve their country in all caſes where an oath is by law neceſſary, and are in every reſpect good ſubjects:

Perſons ſcrupulous of taking an oath in common form to have it adminiſtered by holding up of right hand, &c.

SECTION 1. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That every perſon who ſhall be hereafter called upon as a witneſs, or otherwiſe have occaſion to take an oath, and ſhall ſolemnly declare that he or ſhe is conſcientiouſly ſcrupulous of taking the ſame, by laying the right hand upon the book, and kiſſing it according to law, *(a)* may and ſhall, inſtead thereof, take an oath in the form following, *to wit, He or ſhe may and ſhall lift up the right hand, and ſwear by the ever living God, the ſearcher of all hearts, that,* &c. And at the end of the oath adminiſtered, ſhall ſay, *As he or ſhe ſhall anſwer to God at the great day*; which oath, of ſuch perſons, ſhall be accounted and deemed in the law to have the full effect of an oath in any caſe whatſoever in this government.

Swearing thus falſely, perjury, &c.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That all ſuch perſons as ſhall be convicted of falſely and corruptly declaring and ſwearing, in manner aforeſaid, any matter or thing, which, if the ſame had been upon oath in the preſent legal form, would by law amount to wilful and corrupt perjury, ſhall

(a) See before in chap. 22. a. ſect. 4. The ſolemn affirmation of ſuch perſons as conſcientiouſly refuſe to take an oath is directed to be admitted, &c.

CHAP. CCXXIV. 1775.

ſhall incur the ſame penalties, forfeitures and diſabilities, as perſons convicted of wilful perjury do incur by the laws of this government. And that every perſon who ſhall unlawfully and corruptly procure and ſuborn any witneſs to teſtify falſely and corruptly, in any matter, cauſe or thing judiciouſly to be determined according to the form preſcribed by this act, ſhall ſuffer the pains, forfeitures and diſabilities, which are inflicted by the laws of this government upon perſons guilty of ſubornation of perjury.

Paſſed March 29, 1775.

CHAP. CCXXV. a.

1775. *An* ACT *for the relief of the poor.*

Preamble.

WHEREAS the laws hitherto made in this government, reſpecting the poor, have been defective;

SECTION 1. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,(a)* That each of the Overſeers of the Poor ſhall, yearly and every year, return in writing the names of three good and ſufficient freeholders, reſiding in their reſpective hundreds, to the Juſtices of the Peace of the ſeveral counties within this government, at their Quarter Seſſions to be held for the ſaid counties reſpectively in the month of February; to the end, that the ſaid juſtices, or a majority of them, may chooſe and nominate one out of every ſuch number to ſerve in the ſaid office

Overſeers of the Poor how to be returned and appointed.

(a) An entire new ſyſtem for the maintenance and ſupport of the poor in the ſeveral counties of this ſtate, adopted and provided in chap. 218. b. paſſed January 29, 1791, and its ſupplement, chap. 249. b. paſſed February 4, 1792; which ſee,

office of Overſeer of the Poor for the enſuing year. And if any Overſeer ſhall refuſe or neglect to make ſuch return as aforeſaid, or being ſo choſen and appointed ſhall refuſe to execute the ſaid office, he ſhall forfeit and pay any ſum not exceeding Six Pounds, for the uſe of the Poor of the hundred in which he dwells.

Penalty on neglect to return or refuſal to ſerve.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That every Overſeer ſo nominated and appointed ſhall, before he enters upon the execution of his office, take an oath or affirmation reſpectively, according to law, before ſome Juſtice of the Peace in the reſpective county, *That he will diſcharge the Office of Overſeer of the Poor faithfully and impartially, to the beſt of his knowledge and ability.*

To be qualified.

Their qualification.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Overſeers of the Poor ſo nominated and appointed, having firſt obtained the approbation and conſent of any two Juſtices of the Peace of the ſame county, to make a rate, according to the rate of the county aſſeſſments for the current year, of ſuch ſum or ſums of money, in each reſpective hundred, as ſhall be ſufficient to maintain the poor, indigent and impotent inhabitants of the hundred wherein they have attained their laſt legal ſettlement; and to be collected by them at ſuch times as they ſhall think neceſſary and convenient; and that the money ſo collected, or as much thereof as may be wanting, ſhall be employed for the ſupport of the poor, in providing them proper houſes and places, and a convenient ſtock of hemp, flax, thread and other materials, for ſuch of them to manufacture as are capable of working; and alſo for the relieving ſuch poor, old, blind, impotent and lame perſons or others, who are unable to work within the ſaid hundreds reſpectively.

The manner in which rates are to be laid, collected and applied for the relief of the poor.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for the Overſeers of the Poor of the ſaid hundreds to contract with any perſon or perſons for a houſe or lodging for keeping, maintaining and employing any or all ſuch poor in the ſaid hundreds, reſpectively, as ſhall be adjudged proper objects of relief, and there to keep, maintain and employ all ſuch poor perſons,

How the poor may be ſupported.

and

CHAP. CCXXV. 1775.

and take the benefit of their work, labour and ſervice, for and towards their maintenance and ſupport; and, if any poor perſon ſhall refuſe to be lodged, kept, maintained and employed in ſuch houſe or houſes, he or ſhe ſhall be put out of the book, and ſhall not be entitled to receive relief from the Overſeers during ſuch refuſal.

and forfeit the ſame.

How the rates are to be recovered from delinquents.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons, ſo rated or aſſeſſed, ſhall refuſe to pay the ſum or ſums on them charged, it ſhall and may be lawful to and for the ſaid Overſeers, or any one of them, (having firſt obtained a warrant under the hand and ſeal of any Juſtice of the Peace of the county reſpectively where the ſaid aſſeſſment is made, who is hereby impowered to grant ſuch warrant) to levy the ſame on the goods and chattels of the perſon or perſons ſo refuſing; and in caſe ſuch perſon ſhall not, within three days after ſuch diſtreſs made, pay the ſum or ſums on him or her charged, together with the coſts of ſuch diſtreſs, that the ſaid Overſeers, or any one of them, may proceed to the ſale of the goods diſtrained, rendering to the owner the overplus (if any) that ſhall remain on ſuch ſale, reaſonable charges being firſt deducted; and in caſe ſuch perſon or perſons have no goods or chattels whereby they may be diſtrained, it ſhall and may be lawful for any Juſtice of the Peace to commit the delinquent or delinquents to priſon, there to remain without bail or mainprize, until they have paid the ſame. *(b)*

What relations are to maintain their poor.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That the father and grand-father, mother and grand-mother, being of ſufficient ability, ſhall maintain every poor, blind, lame or impotent child or children, grand-child or grand-children, not able to work, at his, her or their the ſaid parent or parents own proper coſts and charges, as the Juſtices of the Peace at their General Quarter Seſſions ſhall order or direct; and that the children and grand-children of ſuch, being of ability, ſhall by ſuch order of the juſtices

(b) The five preceding ſections altered and ſupplied in chap. 248. b.

tices aforeſaid, at their own charges, relieve and maintain their fathers and mothers, grand-fathers and grand-mothers, not having any eſtate, nor being of ability to work, on pain of forfeiting Forty Shillings for every month they ſhall fail therein, for the uſe of the poor of the hundred wherein they reſide. *(c)*

Penalty on failure.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons ſhall be admitted or entered into the poor's book, or receive relief from the Overſeers of the Poor, before ſuch perſon or perſons have procured an order from two Juſtices of the Peace for the ſame; and in caſe the ſaid Overſeers ſhall enter into their books, or relieve any ſuch poor perſon or perſons, without ſuch orders, they ſhall forfeit all ſuch money or goods paid or diſtributed, unleſs the juſtices ſhall approve and allow them the ſame upon making up their accounts. *(d)*

No perſon to receive relief without an order from two juſtices.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the reſpective Overſeers of the Poor, with the approbation and conſent of any two Juſtices of the Peace of the county, and they are hereby authoriſed, impowered and required, to bind out apprentices to trades or otherwiſe, all orphan children likely to become chargeable to the hundred where they reſide; and the children of all ſuch, who ſhall not by the ſaid juſtices and Overſeers be thought of ability to maintain and educate them, for ſuch term or terms, as the ſaid juſtices and Overſeers in their diſcretion ſhall ſee meet; ſo as that any ſuch male child be not bound longer than until he ſhall arrive at the age of twenty-one years, and a female until ſhe ſhall arrive at the age of eighteen years. *(e)*

Overſeers to bind out poor children, &c.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That all gifts, grants, deviſes and bequeſts hereafter to be made of any houſes, lands, tenements, rents,

Gifts and deviſes for the uſe of the poor made available, &c.

(c) And in chap. 249. b. ſect. 6. Juſtices of the Court of Quarter Seſſions are authoriſed to make an order on the relations of ſuch poor for reimburſing ſums of money expended in their ſupport.

(d) Altered and ſupplied in chap. 218. b. ſect. 19, and in chap. 249. b. ſect. 6.

(e) Altered and ſupplied in chap. 218. b. ſect. 18.

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rents, goods, chattels, ſum or ſums of money, not exceeding in the whole, including all gifts, grants, deviſes and bequeſts heretofore made, the value of One Thouſand Pounds to the poor of any hundred within this government, or to any other perſon or perſons for their uſe, by deed, or by the laſt will and teſtament of any perſon or perſons, or otherwiſe howſoever, ſhall be good and available in law, and ſhall paſs ſuch houſes, lands, tenements, rents, goods and chattels, to the Overſeers of the Poor of ſuch hundred, for the uſe of their poor reſpectively. *(f)*

Overſeers of the Poor incorporated.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That the ſaid Overſeers of the Poor for the hundreds aforeſaid for the time being reſpectively, ſhall forever hereafter in name and in fact be, and they are hereby declared to be bodies politic and corporate in law to all intents and purpoſes, and ſhall have perpetual ſucceſſion, and by the name of Overſeers of the Poor of the ſaid hundreds may ſue and be ſued, and plead and be impleaded in all Courts of Judicature within this government, and by that name may and ſhall purchaſe, take or receive any lands, tenements or hereditaments, goods, chattels, ſum or ſums of money not exceeding in the whole, including all gifts, grants, deviſes and bequeſts heretofore made, and which they are hereby enabled to hold, the aforeſaid value of One Thouſand Pounds, to and for the uſe and benefit of the poor of the ſaid hundreds reſpectively, of the gift, alienation or deviſe of any perſon or perſons whomſoever, to hold to them the ſaid Overſeers and their ſucceſſors in the ſaid truſt, for the uſe of the ſaid poor for ever. *(f)*

The importers of ſuch perſons as are likely to become chargeable to give ſecurity, &c.

SECT. 11. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons, who are likely to become chargeable, be imported or brought into any hundred within any of the counties of this government, it ſhall and may be lawful for any two Juſtices of the Peace of the ſaid county, and upon complaint to them made, they are hereby required to cauſe to come before them the maſter or owner of the veſſel

(f) Theſe ſects. 9, 10, altered and ſupplied in chap. 218. b. ſects. 5, 6

veſſel wherein ſuch perſon or perſons were imported, or the importer or bringer in of ſuch perſon or perſons, and, if they ſee cauſe, oblige them to export or carry back to the place from whence they came any ſuch perſon or perſons ſo by them imported or brought in, and upon refuſal or neglect ſo to do, or to give ſufficient ſecurity to the ſaid juſtices, in the name of the Overſeers of the Poor of ſuch hundred where they are ſo imported or brought in, to bear the hundred harmleſs and indemnified from any charges that may accrue by means of the perſon or perſons ſo imported or brought in, then it ſhall and may be lawful for the ſaid juſtices to commit ſuch maſter, owner, importer, or bringer in, to the common gaol, there to remain until he or they ſhall comply with the order of the ſaid juſtices. *(g)*

Overſeers to make up their accounts yearly, &c.

SECT. 12. *And be it further enacted by the authority aforeſaid*, That the ſaid Overſeers ſhall yearly, at the Court of Quarter Seſſions to be held for the ſaid counties reſpectively in the month of February, make up their accounts with the Juſtices of the Peace of their reſpective county, or any two of them to be there appointed by the reſt; which accounts, when ſettled, ſhall be ſigned by the ſaid juſtices, who ſhall have full power to allow ſuch parts thereof only as to them ſhall appear juſt and reaſonable. And if any ſuch Overſeer or Overſeers ſhall refuſe or neglect to make and yield up ſuch accounts at the ſaid Court of Quarter Seſſions, or within one month after, before the two Juſtices of the Peace there to be nominated for that ſervice, or if any Overſeer or Overſeers, whoſe office that year expires, ſhall refuſe or neglect to pay all the monies raiſed by aſſeſſments which ſhall remain in their hands upon the ſettlement of their accounts, after deducting Two Shillings in the Pound upon the whole ſum by them collected, and alſo pay all other monies which ſhall remain in their hands by fines, forfeitures or donations, and deliver up the books and every other thing in their hands concerning their office to their ſucceſſors, or ſhall refuſe or neglect to

(g) Altered and ſupplied in chap. 218. b. ſect. 17.

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collect and to pay to such successors all such sums of money as are uncollected on the rate or assessment at the expiration of their office, and which could have been received, and that within thirty days after the settlement of their said accounts, it shall and may be lawful for any two Justices of the Peace of the said county to commit such Overseer to the common gaol, there to remain without bail or mainprize, until such Overseer shall give such accounts, and pay and deliver up such money, books and other things, as he ought in manner aforesaid. *(b)*

Penalty on refusal or neglect.

How Overseers are to be appointed when a deficiency happens, &c,

SECT. 13. *And be it further enacted by the authority aforesaid*, That if any person appointed an Overseer in the manner by this act directed, shall refuse to take upon him the said office, or afterwards remove out of the hundred, become insolvent, or die within the year, then and in such case, on due proof thereof made before them, any three Justices of the Peace of the county, in or out of sessions, may and shall nominate any other good and sufficient freeholder, within the said hundred, to be Overseer of the Poor of the same until the next February sessions, in the place and stead of such Overseer so refusing, removing, becoming insolvent or dying. And in case of such removal, the said Overseer shall forthwith deliver over to some other Overseer of the hundred from which he removes his accounts as aforesaid, with all assessments, books, papers, money and other things, concerning his office; and upon the death of any Overseer, his executors or administrators shall, within forty days after his decease, deliver over all things concerning his office to some other Overseer as aforesaid, and shall pay out of the assets all money remaining due, which he received by virtue of his office, before any of his other debts are paid. *(b)*

What shall gain a legal settlement.

SECT. 14. *And*, for the ascertaining what shall gain a settlement in this government, *Be it further enacted by the authority aforesaid*, That if any person, who shall come to inhabit in any hundred in this government, shall for himself and on his own account execute any public

(b) These sects. 12, 13. altered and supplied in said chaps. 218, b. and 249. b.

public office, being legally placed therein, in the ſaid hundred, during one whole year; or if any perſon ſhall be charged with, and pay his or her ſhare towards the public taxes or levies for the poor of the ſaid hundred for two years ſucceſſively; or if any perſon ſhall really and *bona fide* take a leaſe of any lands or tenements in any hundred of the yearly value of Ten Pounds, and ſhall dwell in and upon the ſame for one whole year, and pay the ſaid rent; or ſhall become ſeized of any freehold eſtate in any lands or tenements in any hundred, of the value of Thirty Pounds, and ſhall dwell in and upon the ſame for one whole year; or if any unmarried perſon, not having a child, ſhall be lawfully bound or hired as a ſervant in any of the ſaid hundreds, and ſhall continue and abide in ſuch ſervice during one whole year; or if any perſon ſhall be duly bound an apprentice by indenture, and ſhall inhabit in any hundred with his or her maſter or miſtreſs for one whole year; ſuch perſons, in any of theſe caſes, ſhall be adjudged and deemed to gain a legal ſettlement in ſuch hundred reſpectively where ſuch perſon ſhall ſo execute an office; be charged with, and pay taxes; take ſuch leaſe; or own any ſuch freehold eſtate, and dwell thereon as aforeſaid; or, being hired or bound, ſhall continue and inhabit in a hundred for one whole year as aforeſaid.

How and where ſervants and mariners gain a ſettlement;

SECT. 15. *And be it further enacted by the authority aforeſaid*, That every indented ſervant legally and directly imported from Europe into this government, ſhall obtain a legal ſettlement in the hundred in which ſuch ſervant ſhall ſerve with his or her maſter or miſtreſs the ſpace of ſixty days, and if afterwards ſuch ſervant ſhall duly ſerve in any other hundred for the ſpace of twelve months, ſuch ſervant ſhall obtain a legal ſettlement in the hundred where ſuch ſervice was laſt performed, either with his or her firſt maſter or miſtreſs, or on an aſſignment; and all mariners coming into this government, and every other healthy perſon directly coming from Europe into this government, ſhall be legally ſettled in the hundred in which he or ſhe ſhall firſt ſettle and reſide for the ſpace of twelve months.

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Sect. 16. *And be it further enacted by the authority aforeſaid*, That every married woman ſhall be deemed during coverture, and after her huſband's death, to be legally ſettled in the place where he was laſt legally ſettled; but if he ſhall have no known legal ſettlement, then ſhe ſhall be deemed, whether he is living or dead, to be legally ſettled in the place where ſhe was laſt legally ſettled before her marriage.

Alſo married women the ſame.

Sect. 17. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons, after the publication of this act, ſhall come out of any hundred in this government into any other hundred in this government, there to inhabit and reſide, and ſhall at the ſame time procure, bring and deliver unto the Overſeers of the Poor of the hundred where he or ſhe ſhall come to inhabit, a certificate under the hands and ſeals of the Overſeers of the Poor of the hundred from whence he, ſhe or they removed, to be atteſted by two or more credible witneſſes, thereby acknowledging the perſon or perſons mentioned in the certificate to be an inhabitant or inhabitants legally ſettled in that hundred, every ſuch certificate, having been allowed of and ſubſcribed by one or more Juſtices of the Peace of the county where ſuch hundred doth lie, ſhall oblige the ſaid hundred to provide for the perſons mentioned in the ſaid certificate, together with his or her family, as inhabitants of that hundred, whenever he, ſhe or they ſhall happen to become chargeable to, or be obliged to aſk relief of, the hundred to which ſuch certificate was given, and into which he, ſhe or they were received by virtue of the ſaid certificate; and then and not before it ſhall and may be lawful for any ſuch perſon, and his or her children, though born in the hundred, and his and her ſervants or apprentices, not having otherwiſe acquired a legal ſettlement there, to be removed, conveyed and ſettled in the hundred from whence ſuch certificate was brought; and the witneſſes who atteſt the execution of the certificate by the Overſeers, or one of the ſaid witneſſes, ſhall make oath or affirmation according to law, before the juſtices who are to allow the ſame, that ſuch witneſs or witneſſes did ſee the Overſeers of the Poor, whoſe names and ſeals are thereun-

Perſons removing from one hundred to another to obtain a certificate, &c,

to

to ſubſcribed and ſet, ſeverally ſign and ſeal the ſaid certificate, and that the names of ſuch witneſſes, atteſting the ſaid certificate, are of their own proper handwriting, which ſaid juſtices ſhall alſo certify that ſuch oath or affirmation was made before them; and every ſuch certificate ſo allowed, and oath or affirmation of the execution thereof, ſo certified by the ſaid juſtices, ſhall be taken and received as evidence without other proof thereof. And no perſon ſo coming by certificate into any hundred, nor an apprentice or ſervant to ſuch perſon, ſhall be deemed or adjudged by any act whatſoever to have gained a legal ſettlement therein, unleſs ſuch perſon ſhall, after the date of ſuch certificate, execute ſome public annual office, being legally placed therein in the ſaid hundred.

otherwiſe ſhall not gain a ſettlement unleſs, &c.

SECT. 18. *And be it further enacted by the authority aforeſaid*, That no perſon whatſoever who ſhall come into any hundred without ſuch certificate as aforeſaid, (mariners and other healthy perſons coming from Europe, as aforeſaid, excepted) ſhall gain a legal ſettlement therein, unleſs ſuch perſon ſhall give ſecurity, if required, at his or her coming into the ſame, for indemnifying and diſcharging the ſaid hundred, to be allowed by any one Juſtice of the Peace.

Two juſtices by their warrant may remove ſuch poor as have no legal ſettlement, unleſs ſecurity is given, &c.

SECT. 19. *And be it further enacted by the authority aforeſaid*, That upon complaint being made by the Overſeers of the Poor of any hundred to one or more of the Juſtices of the Peace of the county wherein ſuch hundred is ſituate, it ſhall and may be lawful to and for any two Juſtices of the ſaid county, where any perſon or perſons is or are likely to become chargeable to the ſaid hundred, in which he, ſhe or they ſhall come to inhabit, by their warrant or order, directed to the ſaid Overſeers, to remove and convey ſuch perſon or perſons to the hundred, province or place, where he, ſhe or they was or were laſt legally ſettled, unleſs ſuch perſon or perſons ſhall give ſufficient ſecurity to the Overſeers of the Poor to diſcharge and indemnify the ſaid hundred to which he, ſhe or they is or are likely to become chargeable as aforeſaid. *(i)*

SECT.

(i) Altered and ſupplied in chap. 249. b. ſect. 9.

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SECT. 20. *Provided always*, That if any perſon or perſons ſhall think him, her or themſelves aggrieved by any order of removal made by any of the ſaid juſtices, ſuch perſon or perſons may appeal to the Juſtices of the Peace at their next General Quarter Seſſions of the Peace for the county from whence ſuch poor perſons ſhall be removed, and not elſewhere, which ſaid court ſhall determine the ſame; and if there be any defects of form in ſuch order, the Juſtices in the ſaid ſeſſions ſhall cauſe the ſame to be rectified and amended without any coſts to the party, and, after ſuch amendment, ſhall proceed to hear the truth and merits of the cauſe; but no ſuch order of removal ſhall be proceeded upon, unleſs reaſonable notice be given by the Overſeers of the hundred appealing unto the Overſeers of the hundred from which the removal ſhall be, the reaſonableneſs of which notice ſhall be determined by the Juſtices at the Quarter Seſſions to which the appeal is made, and if it ſhall appear to them that reaſonable time of notice was not given, then they ſhall adjourn the appeal to the next Quarter Seſſions and there determine the ſame.

Perſons who ſhall think themſelves aggrieved by ſuch removal may appeal to the Juſtices of the Quarter Seſſions, &c.

SECT. 21. *And be it further enacted by the authority aforeſaid*, That, for the more effectual prevention of vexatious removals and frivolous appeals, the juſtices in ſeſſions upon any appeal concerning the ſettlement of any poor perſon, or upon any proof before them there to be made of notice of any ſuch appeal to have been given by the proper officer to the Overſeers of any hundred (tho' they did not afterwards proſecute ſuch appeal) ſhall at the ſame ſeſſions order to the party, in whoſe behalf ſuch appeal ſhall be determined, or to whom ſuch notice did appear to have been given, ſuch coſts and charges as by the ſaid juſtices in their diſcretion ſhall be thought moſt reaſonable and juſt, to be paid by the Overſeers or any other perſon againſt whom ſuch appeal ſhall be determined, or by the perſon that did give ſuch notice; and if the perſon ordered to pay ſuch coſts and charges ſhall live out of the juriſdiction of the ſaid court, any juſtice where ſuch perſon ſhall inhabit ſhall, on requeſt to him made, and a true copy of the order for the payment of ſuch coſts and charges, certified under the hand of the

who may order coſts and charges to be paid, &c.

the Clerk of the Court, by his warrant cauſe the ſame to be levied by diſtreſs, and if no ſuch diſtreſs can be had, ſhall commit ſuch perſons to the common gaol, there to remain without bail or mainprize, until he pays the ſaid coſts and charges. And if the ſaid juſtices, on ſuch appeal, ſhall determine in favour of the appellant that ſuch poor perſon was unduly removed, they ſhall at the ſame Quarter Seſſions order and award to ſuch appellant ſo much money as ſhall appear to the ſaid juſtices to have been reaſonably paid by the hundred, on whoſe behalf ſuch appeal was made, towards the relief of ſuch poor perſon, between the time of ſuch undue removal and the determination of ſuch appeal with the coſts aforeſaid; the ſaid money ſo awarded and the coſts to be recovered in the ſame manner as coſts and charges awarded againſt an appellant are to be recovered by virtue of this act as aforeſaid.

Penalty on entertaining ſuch perſons as have not gained a legal ſettlement, &c.

SECT. 22. *And be it further enacted by the authority aforeſaid*, That if any houſekeeper or inhabitant of this government ſhall, after the publication of this act, take into, receive or entertain in his or her houſe or houſes any perſon or perſons whatſoever (all mariners coming into this government, and every other healthy perſon coming from Europe immediately into the ſaid government, only excepted) not being perſons who have gained a legal ſettlement in ſome hundred in theſe counties, and ſhall not give notice in writing, which they are hereby required to do, within three days next after the taking into or entertaining any perſon or perſons in his or her houſe, to the Overſeers of the Poor of the hundred where ſuch perſon dwells, ſuch inhabitant or houſekeeper, being thereof legally convicted by the teſtimony of one credible witneſs on oath or affirmation before any one Juſtice of the Peace of the county where ſuch perſon dwells, ſhall forfeit and pay the ſum of Twenty Shillings for every offence, the one moiety for the uſe of the poor of the hundred, and the other moiety to the informer; to be levied on the goods and chattels of the delinquents in the manner herein after directed, and for want of ſufficient diſtreſs, the offender to be committed to the work-houſe of the ſaid county, there to remain

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remain without bail or mainprize for the ſpace of ten days. And moreover, in caſe the perſon or perſons ſo entertained or concealed ſhall become poor and unable to maintain him or herſelf, and cannot be removed to the place of his or her laſt legal ſettlement in any other province, if any ſuch he or ſhe hath, or ſhall happen to die, and not have wherewithal to defray the charge of his or her funeral, then and in ſuch caſe the houſekeeper or perſon, convicted of entertaining or concealing ſuch poor perſon againſt the tenor of this act, ſhall be obliged to provide for and maintain ſuch poor and indigent perſon or perſons, and in caſe of ſuch poor perſon's death, ſhall pay to the Overſeers of the Poor ſo much money as ſhall be expended on the burying of ſuch poor and indigent perſon or perſons, and upon refuſal ſo to do, it ſhall be lawful for the Overſeers of the Poor of the ſaid hundred, and they are hereby required to aſſeſs a ſum of money on the perſon or perſons ſo convicted from time to time by a weekly aſſeſſment, for maintaining ſuch poor and indigent perſon or perſons, or aſſeſs a ſum of money for defraying the charges of ſuch poor perſon's funeral, as the caſe may be; and in caſe the party convicted ſhall refuſe to pay the ſum of money ſo aſſeſſed or charged to the Overſeers of the Poor for the uſes aforeſaid, the ſame ſhall be levied on the goods and chattels of the offender in the manner herein after directed; but if ſuch perſons ſo convicted have no goods or chattels to ſatisfy the money ſo aſſeſſed for him or her to pay, then it ſhall and may be lawful for the ſaid juſtices to commit the offender to priſon, there to remain without bail or mainprize, until he or ſhe hath paid the ſame, or until he or ſhe ſhall be diſcharged by due order of law.

Penalty on Overſeers refuſing to receive perſons removed by order of the juſtices, &c.

SECT. 23. *And be it further enacted by the authority aforeſaid*, That if any perſon be removed from one county or hundred to another by warrant or order under the hands and ſeals of two Juſtices of the Peace by virtue of this act as aforeſaid, the Overſeers of the Poor of the hundred, to which the ſaid perſon ſhall be ſo removed, are hereby required to receive the ſaid perſon; and if any of the ſaid Overſeers ſhall refuſe or neglect ſo to do, he or they ſo offending, upon proof thereof

thereof by one or more credible witneſſes upon oath or affirmation before any one of the Juſtices of the Peace of the county where the offender doth reſide, ſhall forfeit for every ſuch offence the ſum of Five Pounds, to the uſe of the poor of the hundred from which ſuch perſon was removed, to be levied by diſtreſs and ſale of the offender's goods by warrant under the hand and ſeal of the ſaid Juſtice of the Peace, which he is hereby required and impowered to make, directed to the Conſtable of the hundred where ſuch offender or offenders dwell, returning the overplus, if any be, to the owner or owners; and for want of ſufficient diſtreſs, then the offender to be committed to the gaol of the county where he dwells, there to remain without bail or mainprize for the ſpace of forty days.

SECT. 24. *And whereas* it often happens that poor perſons come from one hundred into another of this government, and conceal themſelves until they become ſick or lame, and cannot be removed, or die before they can be removed, by reaſon whereof the inhabitants of the hundred where ſuch poor perſon or perſons fell ſick or died are put to charges without any means to relieve themſelves from the payment of the monies expended for the maintenance or burying of ſuch poor perſon or perſons.

Perſons unfit to be removed how to be ſupported; and from whom and in what manner the charges are to be recovered.

SECT. 25. *Be it therefore enacted by the authority aforeſaid*, That if any poor perſon or perſons ſhall come out of any hundred in this government into another hundred in this government, and ſhall happen to fall ſick or die before he or ſhe has gained a legal ſettlement in the hundred to which he or ſhe ſhall come, ſo that ſuch perſon or perſons cannot be removed, the Overſeers of the Poor of the hundred into which ſuch perſon or perſons is or are come, or one of them, ſhall, as ſoon as conveniently may be, give notice to the Overſeers of the Poor of the hundred where ſuch perſon or perſons had laſt gained a legal ſettlement, or to one of them, of the name, circumſtances and condition of ſuch perſon or perſons, and if the Overſeers of the Poor, to whom ſuch notice ſhall be given, ſhall neglect or refuſe to pay the monies expended for the uſe of ſuch poor perſon or perſons, and to take order for relieving and maintaining ſuch poor perſon or perſons,

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or, in caſe of his, her or their death, before notice can be given as aforeſaid, ſhall on requeſt being made neglect or refuſe to pay the monies expended in maintaining and burying ſuch poor perſon or perſons, then, and in every ſuch caſe, it ſhall be lawful for any two Juſtices of the Peace of the county where ſuch poor perſon or perſons was or were laſt legally ſettled, and they are hereby authoriſed and required, upon complaint made to them, to cauſe all ſuch ſums of money as were neceſſarily expended for the maintenance of ſuch poor perſon or perſons, during the whole time of his, her or their ſickneſs, and in caſe he, ſhe or they die, for his, her or their burial, by warrant under their hands and ſeals, to be directed to ſome Conſtable of the county, to be levied by diſtreſs and ſale of the goods and chattels of the ſaid Overſeer or Overſeers of the Poor ſo neglecting or refuſing, to be paid to the Overſeer or Overſeers of the hundred where ſuch poor perſon or perſons happened to be ſick, or to die, as aforeſaid; and the overplus of monies ariſing by ſale of ſuch goods, remaining in the Conſtable's hands after the ſum of money ordered to be paid, together with the coſts of the diſtreſs, are ſatisfied, ſhall be reſtored to the owner or owners of the ſaid goods.

Perſons aggrieved may appeal.

SECT. 26. *Provided always*, That if any of the Overſeers ſhall think him or themſelves aggrieved by any ſentence of ſuch juſtices, or by their refuſal to make any order as is aforeſaid, he or they may appeal to the Juſtices of the Peace at their next Court of Quarter Seſſions for the county where ſuch juſtices reſide, and not elſewhere, who are hereby authoriſed and required to hear and finally determine the ſame.

SECT. 27. *And whereas* it ſometime happens that men ſeparate themſelves without any reaſonable cauſe from their wives and deſert their children, and women alſo deſert their children, leaving them a charge upon ſome hundred, although ſuch perſons may have eſtates which ſhould contribute to the maintenance of ſuch wives or children; *Be it therefore enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Overſeers of the Poor of any hundred where ſuch wife or children ſhall be ſo left, or where ſuch wife or

children

children ſhall be ſo neglected, having firſt obtained a warrant or order of any two Juſtices of the Peace of the county, to take and ſeize ſo much of the goods and chattels, and receive ſo much of the annual rents and profits of the lands and tenements of ſuch huſband, father or mother, as ſuch two juſtices ſhall order and direct, for providing for ſuch wife, and for maintaining and bringing up ſuch child or children; which warrant or order, being confirmed at the next Quarter Seſſions for the county, it ſhall and may be lawful for the juſtices there to make an order for the Overſeers to diſpoſe of ſuch goods and chattels by ſale or otherwiſe, or ſo much of them, for the purpoſes aforeſaid, as the court ſhall think fit, and to receive the rents and profits, or ſo much of them as ſhall be ordered by the ſaid ſeſſions, of his or her lands and tenements for the purpoſes aforeſaid; and if no eſtate real or perſonal of ſuch huſband, father or mother can be found, wherewith proviſion may be made as aforeſaid, it ſhall and may be lawful to and for the ſaid Juſtices in their Court of Quarter Seſſions to order the payment of ſuch ſums as they ſhall think reaſonable for the maintenance of any wife or children ſo neglected, and commit ſuch huſband, father or mother to the common gaol, there to remain until he or ſhe comply with the ſaid order, give ſecurity for the performance thereof, or be otherwiſe diſcharged by the ſaid juſtices; and on complaint made to any Juſtice of the Peace in any county of any wife or children being ſo neglected, ſuch juſtice ſhall take ſecurity from the huſband, father or mother neglecting as aforeſaid, for his or her appearance at the next General Quarter Seſſions, there to abide the determination of the ſaid court, and for want of ſecurity ſhall commit ſuch perſons. *(k)*

How perſons are to be proceeded againſt who deſert or neglect their wives or children.

SECT. 28. *And be it further enacted by the authority aforeſaid,* That the ſeveral fines, forfeitures and penalties, ſum and ſums of money impoſed or directed to be paid by this act, and not herein otherwiſe directed

How fines are to be recovered.

to

(k) This ſection re-enacted in chap. 249. b. ſect. 10. with ſuch alterations only, as neceſſary to make it correſpond with the new ſyſtem.

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to be recovered, the ſame and every of them ſhall be levied and recovered by diſtreſs and ſale of the goods and chattels of the delinquent or offender, by warrant under the hand and ſeal of any one juſtice of the county where the delinquent or offender dwells or is to be found, and after ſatisfaction made of the reſpective fines, forfeitures and penalties and ſums of money directed to be levied by ſuch warrant as aforeſaid, together with ſuch legal charges as ſhall become due on the recovery thereof, the overplus, if any, to be returned to the owner or owners of ſuch goods and chattels, his or her executors or adminiſtrators.

Perſons aggrieved may appeal.

SECT. 29. *Provided always*, That if any perſon or perſons ſhall find him or themſelves aggrieved with the judgment of any juſtice or juſtices given out of their ſeſſions in purſuance of this act, ſuch perſon or perſons may appeal to the next General Quarter Seſſions of the Peace for the county where ſuch ſentence was given, (except in caſes of removals, and caſes of poor perſons becoming chargeable in one place who are legally ſettled in another, which are otherwiſe provided for by this act) whoſe deciſion in all ſuch caſes ſhall be concluſive.

Overſeers, &c. may plead, &c.

SECT. 30. *And be it further enacted by the authority aforeſaid*, That if any action ſhall be brought againſt any Overſeer, or other perſon, who in his aid, and by his command, ſhall do any thing concerning his office, he may plead the general iſſue, and give this act and any ſpecial matter in evidence; and if the plaintiff ſhall fail in his action, diſcontinue the ſame, or become non-ſuit, he ſhall pay double coſts.

Former acts repealed.

SECT. 31. *And be it further enacted by the authority aforeſaid*, That all and every act and acts of General Aſſembly of this government heretofore made for the relief of the poor, and every article, clauſe and thing in all and every ſuch act and acts contained, be, and the ſame are hereby repealed, annulled and made void to all intents and purpoſes whatſoever. *(l)*

SECT. 32. *Provided always, and be it further enacted by the authority aforeſaid*, That nothing in this act contained

(l) For theſe ſee chaps. 88. a—106. a—163. a—179. a—190. a—202. a.

contained ſhall be deemed or conſtrued to extend, abridge, alter or change the powers and duties of the preſent reſpective Overſeers of the Poor, or Collectors in any hundred within this government; but that they the ſaid Overſeers of the Poor and Collectors ſhall continue, and they are hereby impowered and required to hold, exerciſe, do and perform the powers and duties to their offices reſpectively belonging, until the next Courts of General Quarter Seſſions of the Peace to be held for each of the counties in this government in February next, as fully and amply to all intents and purpoſes, as if this act had not been made, any thing herein contained to the contrary notwithſtanding.

Paſſed March 29, 1775.

CHAP. CCXXVI. a.

An ACT *for extending an act, entitled,* An act to prevent ſwine running at large, without rings and yokes, in certain parts of New-Caſtle county within this government, *to Pencader hundred, in the county aforeſaid.* 1775.

Preamble.

WHEREAS by an act of Aſſembly paſſed in the twentieth year of the reign of his late Majeſty George the Second, entitled, *An act to prevent ſwine running at large, without rings and yokes, in certain parts of New-Caſtle county, within this government,* (a) it is provided, that no ſwine ſhall run at large (unleſs ſufficiently ringed to prevent them from rooting, and yoked to prevent them from creeping or breaking through fences) on any of the improved lands, meadows or marſhes of the inhabitants of New-Caſtle county aforeſaid, except in the ſeveral hundreds of Pencader and Appoquinimink. (b)

SECT.

(a) Chap. 113. a.

(b) After extended to that part of Appoquinimink hundred lying to the eaſtward of the (then) upper King's road leading through that hundred. See chap. 192. a.

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SECTION 2. *And whereas* ſince the making of the ſame act great quantities of low and ſwampy ground, within the ſaid hundred of Pencader, have been made and conſiderably improved into meadow, and when compleated will be of great benefit as well as to the inhabitants of ſaid hundred as the owners thereof; but foraſmuch as ſuch improvements already have been and hereafter may be much impeded and injured by herds of ſwine, without rings and yokes, running at large over the ſame, and the owners greatly diſcouraged from going on with their improvements; to prevent which damages and inconveniencies for the future, and for the ſecurity and encouragement of the owners, as well of the ſaid low grounds as of the meadows and improved lands in ſaid hundred,

No ſwine to run at large in Pencader hundred except, &c.

SECT. 3. *Be it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame,* That from and after the firſt day of May next the ſaid recited act, and every clauſe, matter and thing therein contained, ſhall extend, and be deemed, conſtrued and taken to extend to the ſaid hundred of Pencader, any thing contained in the ſaid recited act of Aſſembly to the contrary notwithſtanding.

Paſſed March 29, 1775.

CHAP.

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1775.

An ACT *for veſting the Court Houſe and public offices with the lots of ground whereon the ſame are erected, together with another lot adjoining the ſame on the north ſide thereof, ſituate in the town of Dover, in the county of Kent, in Truſtees for the uſes thereinmentioned.*

Preamble.

WHEREAS the lot of land ſituate in the Court Houſe Square in the town of Dover, and deſcribed in a plot or ſurvey thereof, recorded in the office for recording of deeds in the county of Kent, and another lot of land, divided from the ſame by an alley, called the Court Houſe Alley, on the north ſide of the ſaid lot firſt mentioned, have been and now are conſidered, taken and held as ground belonging to the public, and accordingly a Court Houſe and a building for keeping the records of the ſaid county of Kent have been erected thereon at the charge of the ſame county: *And whereas* there is another lot of land lying on the north ſide of the ſaid lot laſt mentioned, and on the eaſt ſide of the Court Houſe Square aforeſaid, numbered in the town plot of Dover twenty-ſeven, and contained within the bounds following, *to wit*, *Beginning* at a corner of the office lot, numbered in the aforeſaid town plot thirty-three, and running, with the line of the ſaid office lot, eaſt by north ninety-ſeven feet; then ſouth by eaſt two perches to the Court Houſe Alley; then, by the ſaid alley, eaſt by north ſix perches; then north by weſt three perches five and an half feet, to the corner of lot number thirty; then with the ſaid lot weſt by ſouth eleven perches fourteen and an half feet, to the Court Houſe Square aforeſaid; and then therewith ſouth by eaſt twenty-two feet to the place of beginning; laid out for twenty-eight and an half ſquare perches, which hath been purchaſed at the expence of the ſaid county of Kent, from a certain James Wells and Rebecca his wife, who conveyed the ſame by their deed, bearing date the thirteenth day of March laſt, to a certain Jacob Stout, eſq. in truſt for the inhabitants

of

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of the ſaid county of Kent. Now, to the end and intent that the ſaid three lots of land, and the buildings thereon erected, or hereafter to be erected, together with the ſaid alley, ſo far as the firſt recited lot extends along the ſame, may be effectually ſecured for the public, and that the legal eſtate and inheritance therein may be veſted in Truſtees to and for the uſes and purpoſes herein after mentioned and ſpecified,

SECTION 1. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame,* That the ſaid lots of land, alley and buildings, and all the immunities, improvements, advantages, hereditaments and appurtenances to the ſame belonging, or in any wiſe appertaining, and the remainder and remainders, reverſion and reverſions thereof ſhall, from and after the paſſing of this act, be ſettled upon, and veſted in Cæſar Rodney, Charles Ridgely, Samuel Chew, William Killen and Jacob Stout, eſquires, and the ſurvivors and ſurvivor of them, and the heirs and aſſigns of ſuch ſurvivor forever; upon the truſts nevertheleſs, and to and for the ends, intents and purpoſes, and ſubject to the uſes herein after mentioned, expreſſed and declared; *That is to ſay,* As to the ſaid Court Houſe, until another ſhall, by order of the Levy Court for the ſaid county of Kent, be built in the place and ſtead thereof, upon ſome part of the ſaid lots and alley; and ſuch other Court Houſe, when built, to and for the uſe of the Juſtices of the Supreme Court of this government, for the holding the ſaid court for the ſaid county of Kent, as long as the ſaid court ſhall from time to time be adjourned and continue; and at all other times, for the uſe of the Juſtices of the Court of Common Pleas, and Juſtices of the Court of Quarter Seſſions for the ſaid county of Kent, for the holding courts therein; and for ſuch other uſes and purpoſes as they ſhall direct for

Lots in the town of Dover whereon the Court Houſe and public offices are erected, hereby veſted in Truſtees;

The uſes.

(a) ſect. 3.

for the ſervice of the ſaid county; *(a)* and as to the ſaid building for keeping the records of the ſaid county of Kent, until other buildings are erected for that purpoſe, and ſuch other buildings when erected, that the ſame ſhall be for the uſe of the Clerks of the ſeveral courts and other public officers of the ſaid county of Kent, from time to time and at all times forever, as public offices, ſubject to ſuch regulations as the Juſtices of the ſaid Courts of Common Pleas and Quarter Seſſions for ſaid county ſhall think proper to make from time to time, concerning the ſame; and as to the ſaid three lots of land and alley, whereon the ſame Court Houſe and Office are built, that the ſame be for the uſe of the ſaid county of Kent, ſubject to the direction of the Juſtices of the Courts of Common Pleas and Quarter Seſſions for the ſaid county forever: *And* upon this further truſt and confidence, and to this further end, intent and purpoſe, that the ſaid Cæſar Rodney, Charles Ridgely, Samuel Chew, William Killen and Jacob Stout, and the ſurvivors and ſurvivor of them, and the heirs of ſuch ſurvivor, ſhall, from time to time and at all times hereafter, permit and ſuffer ſuch ſuit and ſuits, action and actions to be commenced and proſecuted in his or their names; and alſo make, ſeal, deliver, execute and acknowledge ſuch deed or deeds, conveyance or conveyances, fines, recoveries or aſſurances in the law whatſoever, for the ſaid three lots of land and alley, buildings, tenements and hereditaments, ſettled and veſted in the ſaid Truſtees, as aforeſaid, or any part or parcel thereof, to ſuch perſon or perſons, and in ſuch manner and form, but to the uſes aforeſaid, as the Juſtices of the Courts of Common Pleas and Quarter Seſſions for the county of Kent aforeſaid ſhall, at any time or times hereafter, direct and appoint; ſo always that the ſaid Cæſar Rodney, Charles Ridgely, Samuel Chew, William Killen and Jacob Stout, and their heirs, executors and adminiſtrators, and every of them, be well and truly indemnified, ſaved and kept harmleſs

(a) See alſo chap. 220. b. ſects. 1, 2. paſſed Jan. 29, 1791.—and chap. 88. e. ſect. 3. paſſed Feb. 7, 1795.

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of and from any coſts, charges, trouble and moleſtation whatſoever, which may ariſe for or by reaſon of ſuch ſuits, deeds, conveyances, fines, recoveries or aſſurances, ſo to be commenced, proſecuted, made and executed.

Preſent alley may be ſtopped and another opened by Commiſſioners of the town lots.

SECT. 2. *And whereas* it may be found convenient to erect a building upon the alley before mentioned, called the Court Houſe Alley, whereby the ſame will be ſtopped to the injury of the owners of lands lying to the eaſtward of the lots herein before deſcribed, *Be it enacted by the authority aforeſaid*, That in ſuch caſe, it may and ſhall be lawful to and for the Commiſſioners for diſpoſing of lots in the town of Dover, and they are hereby required to lay out another alley of the ſame width with the preſent Court Houſe Alley, through the ſaid lots ſituate to the north thereof, as a paſſage for the owners of lands adjoining the ſame, and return a deſcription of ſuch alley in writing, under their hands, into the office of the Clerk of the Peace for the ſaid county of Kent, there to be entered of record; which alley ſo to be laid out, ſhall continue open forever; any thing herein contained to the contrary notwithſtanding.

Declared a public act.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That this act ſhall be deemed, adjudged and taken to be a public act, and ſhall be judicially taken notice of, as ſuch, by all judges, juſtices and other perſons whatſoever, without ſpecially pleading the ſame.

Paſſed March 29, 1775.

CHAP. CCXXVIII. a.

1775. *An* ACT *for continuance of a former act, entitled*, A ſupplementary act to an act, entitled, An act for regulating elections and aſcertaining the number of Members of Aſſembly.

Preamble:

WHEREAS an act of Aſſembly was made in the eleventh year of the reign of his preſent Majeſty

Majeſty George the Third, entitled, *A ſupplementary act to an act, entitled, An act for regulating elections, and for aſcertaining the number of the Members of Aſſembly,* (a) to continue in force for the term of three years, and from thence to the end of the next Seſſion of Aſſembly, and no longer; Now, foraſmuch as it hath been found by experience that the ſame is a beneficial law,

BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame, That the ſaid act remain, continue and be perpetual from the end of this Seſſion of Aſſembly.

Former act made perpetual; of which ſee before chap. 207.

Paſſed September 2, 1775.

CHAP. CCXXIX. a.

An ACT *for the more effectual aſcertaining and fixing the limits of the ſeveral counties within this government, and for remedying ſome inconveniences that may ariſe by the late eſtabliſhment of the boundaries and diviſional lines between the ſame and Maryland.* (b)

1775.

WHEREAS in purſuance of certain articles of agreement, made the tenth day of May in the year of our Lord One Thouſand Seven Hundred Thirty and Two, between the right honorable Charles, Lord Baltimore, proprietor of the province of Maryland, and the honorable the proprietaries of theſe counties of New-Caſtle, Kent and Suſſex, and the province of Pennſylvania, and of the decree of the Lord High Chancellor of England, bearing date the fifteenth

Preamble.

(a) See before chap. 207. a.

(b) See a ſupplementary act hereto, chap. 231. a.

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fifteenth day of March in the year of our Lord One Thouſand Seven Hundred and Fifty, for the ſpecific performance and execution of the ſaid articles; and alſo in purſuance of certain other articles of agreement made, the fourth day of July in the year of our Lord One Thouſand Seven Hundred and Sixty, between the right honorable Frederick, Lord Baltimore, ſon and heir of the ſaid Charles, Lord Baltimore, and the honorable the proprietaries of theſe counties and the province of Pennſylvania, and of one other decree of the Lord High Chancellor of England bearing date the ſixth day of March in the year of our Lord One Thouſand Seven Hundred Sixty and Two, for the ſpecific performance of the laſt mentioned articles; the ſeveral lines, mentioned and deſcribed in the ſaid articles, and thereby finally agreed upon and ſettled by the ſaid parties, to be and forever remain the boundaries and diviſional lines between the ſaid provinces and counties, have been run by Commiſſioners, for that purpoſe appointed and authoriſed by the ſaid reſpective proprietors, and marked out in exact conformity to the ſaid articles, with ſtones, pillars and other land-marks, and deſcribed by the ſaid Commiſſioners in the return of their proceedings under their hands and ſeals, and in an exact plan or map thereof.

SECTION 2. *And whereas* in the year of our Lord One Thouſand Seven Hundred and Sixty-ſeven a joint petition was preferred to his preſent Majeſty, by the ſaid Frederick, Lord Baltimore, and the proprietaries of theſe counties and the ſaid province of Pennſylvania, reciting the before mentioned articles and decrees, and ſetting forth, that their Commiſſioners were then proceeding in the work; that they the ſaid proprietors were deſirous as much as in them lay, to quiet the minds of all his Majeſty's ſubjects, inhabiting in the lately diſputed parts of the ſaid provinces and counties, and to promote the peace and welfare of thoſe parts; and in order to give a further teſtimony of their firm agreement, and that a final end and period had been put to all their conteſts and litigations by their ſaid agreement of the year One Thouſand Seven Hundred and Sixty, they, by their ſaid petition, moſt humbly prayed his Majeſty, that he would be

moſt

moſt graciouſly pleaſed to give his royal allowance, ratification and confirmation, of the ſeveral and reſpective articles and enrolled decrees before mentioned, and every article, clauſe and thing in them and each of them contained, and that the ſame might be forever eſtabliſhed between them; Whereupon his Majeſty, by his order in Council dated the eleventh day of January, in the year of our Lord One Thouſand Seven Hundred and Sixty-nine, was pleaſed to ſignify his royal approbation of the ſaid agreements and proceedings mentioned in the petition of the ſaid proprietaries; whereof as well the proprietaries of the ſaid provinces, as all others whom it might concern, were ordered to take notice, and govern themſelves accordingly.

SECT. 3. *And whereas* the honorable the Governor and Commander in Chief of theſe counties and the province of Pennſylvania, in purſuance of his Majeſty's pleaſure and permiſſion, by his proclamation bearing date the eighth day of April, in the year One Thouſand Seven Hundred and Seventy-five, did publiſh and make known all and ſingular the premiſes, thereby requiring (among other things) all officers and other perſons, dwelling to the northward and eaſtward of the lines and boundaries ſo as aforeſaid run and marked, between the province of Maryland and counties aforeſaid, to yield obedience to the laws of the ſaid counties and govern themſelves according thereto. For the purpoſe therefore of carrying the intention of the ſaid proclamation and the laws of this government more effectually into execution,

SECT. 4. *Be it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That from and after the publication of this act the line dividing the counties of New-Caſtle and Kent, continued from the mouth of a branch iſſuing from the main branch of Duck-Creek, and oppoſite part of Enoch Jones's land on the Kent ſide, and Richard Naſh's land

The diviſional line between the counties of New-Caſtle and Kent continued and fixed,

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land on the New-Caſtle ſide, and running from thence up the ſaid branch on the ſeveral courſes thereof, weſtwardly ſix hundred and two perches to a white oak corner tree of Benjamin Hazle and Richard Hollet's lands at the head of ſaid branch; from thence continued due weſt one thouſand ſeven hundred and eight perches, till it interſects the tangent or diviſional line between theſe counties and Maryland, where the ſame croſſes the Cyprus Branch, ſhall be deemed, taken and held, the boundary between the ſaid counties of New-Caſtle and Kent; and that the line between the counties of Kent and Suſſex, continued from a fork of Miſpillion-creek, at the junction of Tan-Trough-branch, and Beaver-dam Branch, running up the Tan-Trough-branch with the ſeveral courſes thereof eight hundred and eight perches to the head thereof; thence ſouth weſtwardly to a ſmall fork of a ſmall branch of the river Nanticoke; thence down ſaid branch to the ſouthward end of a Beaver-dam, on the weſt ſide of a Beaver-pond, the original temporary diviſion between Kent, Suſſex and Maryland, and from thence due weſt two thouſand eight hundred ſixty and four perches to the north and ſouth or tangent line aforeſaid, ſhall be deemed, taken and held the boundary between the ſaid counties of Kent and Suſſex; and that all the perſons inhabiting the lately diſputed lands within this government ſhall have and enjoy all the immunities, rights, liberties and privileges, which they could or might be entitled to, as if they had always been acknowledged actually to have reſided within the ſame.

also between the counties of Kent and Suſſex.

Perſons inhabiting the lately diſputed lands ſhall enjoy all rights, privileges, &c.

Juſtices ſhall aſcertain the boundaries of the ſeveral hundreds, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the Juſtices of the Peace for the ſeveral counties of this government may and ſhall, as ſoon as conveniently may be, in the Courts of General Quarter Seſſions to be held for the ſaid counties reſpectively, aſcertain the bounds and limits of the ſeveral ancient hundreds within the ſame, and lay out ſuch and ſo many new hundreds as may be found neceſſary and convenient, and, until the ſame ſhall be ſo fixed and laid out, that the freeholders and other electors who have heretofore reſided together and been conſidered as inhabitants of one and the ſame diſtrict

or

or hundred, and now added to the county of Suſſex, may and ſhall chooſe their own Inſpectors and Aſſeſſors in the preſence of two freeholders in each diſtrict or hundred, to be named by John Dagworthy, William Elligood, William Polke, William Holland and Jonathan Bell, eſquires, or any three of them, which ſaid freeholders are this year appointed to ſupply the defect of ſuch officers in thoſe hundreds, added as aforeſaid to Suſſex county, as by law are conſtituted judges in electing ſaid Inſpectors and Aſſeſſors, and alſo to maintain and ſupport the poor and public roads, and do all and every other act or thing in like manner as the inhabitants of any ancient hundred within this government might or could do before the paſſing of this act.

Paſſed September 2, 1775.

CHAP. CCXXX. a.

An ACT *for emitting the ſum of Thirty Thouſand Pounds, in bills of credit, on loan, and providing a fund for the payment of public debts.(a)* 1775.

WHEREAS through the ſcarcity of gold and ſilver in this government, occaſioned by the frequent remittances thereof to Great Britain in diſcharge of the debts accrued by the importation of manufactures and merchandiſe from thence, and the conſtant ſinking of the bills of credit emitted during the late war, and granted to his Majeſty for the protection of his American dominions, the improvement and commerce of this government are obſtructed: Preamble.

SECTION 2. *And whereas* by means of the intereſt-money, ariſing on the loan of the bills of credit formerly emitted, the inhabitants of theſe counties have been enabled to ſupport government in an honorable manner;

SECT.

(a) For a ſubſequent emiſſion, ſee chap. 8. b. paſſed Feb. 22, 1777.

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1775.

SECT. 3. *Be it therefore enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame,* That bills of credit to the value of Thirty Thouſand Pounds ſhall, before the firſt day of January next, be prepared and printed on good ſtrong paper, under the care and direction of Thomas M'Kean, Alexander Porter and John Clowes, eſquires, or any two of them, the charges whereof ſhall be paid out of the intereſt monies that ſhall ariſe upon the loan of any bills of credit to be emitted, by any Truſtees of the Loan Offices of this government for the time being; which bills ſhall be made and prepared in manner and form following, *That is to ſay,*

Thirty Thouſand Pounds to be ſtruck in bills of credit,

——————according to an act of General Aſſembly of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, paſſed in the fifteenth year of the reign of his Majeſty George the Third. Dated the firſt day of January, One Thouſand Seven Hundred and Seventy-ſix.

Form of the bills;

SECT. 4. *And* the ſame bills ſhall be printed with the arms of the King on the one ſide, and the ſums of money for which every of the ſaid bills is to paſs ſhall be printed at the top of each bill in words at length, with ſuch other devices on the ſaid bills as the ſaid Thomas M'Kean, Alexander Porter and John Clowes, or any two of them, ſhall think proper, each of which bills ſhall be of the ſeveral and reſpective denominations following, and no other, *That is to ſay,*

their number and denomination.

Twelve thouſand of the ſaid bills, the ſum of Twenty Shillings in each of them.

Twelve thouſand of the ſaid bills, the ſum of Ten Shillings in each of them.

Twelve thouſand of the ſaid bills, the ſum of Six Shillings in each of them.

Twelve thouſand of the ſaid bills, the ſum of Five Shillings in each of them.

Twelve

Twelve thouſand of the ſaid bills, the ſum of Four Shillings in each of them.

Twelve thouſand of the ſaid bills, the ſum of Two Shillings and Six-pence in each of them.

Twelve thouſand of the ſaid bills, the ſum of One Shilling and Six-pence in each of them.

Twelve thouſand of the ſaid bills, the ſum of One Shilling in each of them.

SECT. 5. *And* the ſaid Thomas M'Kean, Alexander Porter and John Clowes, or any two of them, ſhall uſe their beſt care, attention and diligence, during the printing the ſaid bills, that the number and amount of them, according to their reſpective denominations aforeſaid, be not exceeded, nor any clandeſtine or fraudulent practice uſed by the printer, his ſervants or others concerned therein.

SECT. 6. *And* for perfecting the ſaid bills according to the true intent and meaning of this act, *Be it enacted by the authority aforeſaid*, That all and every of the ſaid bills ſhall be ſigned and numbered by the perſons following, *That is to ſay*, John M'Kinly, of the county of New-Caſtle, Thomas Collins, of the county of Kent, and Boaz Manlove, of the county of Suſſex, eſquires, who are hereby nominated and appointed to be the ſigners of the ſaid bills, and ſhall before they receive or ſign any of them take an oath to the following effect; Signers names,

THAT they will well and truly ſign and number all the bills of credit that ſhall come to their hands for that purpoſe by the direction of this act; and the ſame ſo ſigned and numbered will deliver or cauſe to be delivered unto the Truſtees of the reſpective General Loan Offices of this government purſuant to the direction of this act. their qualification,

SECT. 7. *And* the ſaid Thomas M'Kean, Alexander Porter and John Clowes, or any two of them, after the ſaid bills are printed, ſhall deliver them into the hands of the ſaid ſigners to be ſigned and numbered, who ſhall give their receipts for the ſaid bills; and the ſaid ſigners ſhall deliver to the Truſtees hereafter named, at the reſpective Loan Offices, all the ſaid bills ſo made, numbered and ſigned as aforeſaid, in the reſpective quotas or proportions hereafter limited and appointed; of all which ſaid bills of credit ſo

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delivered to be ſigned and numbered, a true account ſhall be kept by the ſigners, who, upon their delivery of the ſaid quotas or proportions of the ſaid bills, by them ſigned and numbered, ſhall take the receipts of the ſaid Truſtees reſpectively, to charge them before any Committee of Aſſembly, to be appointed for that purpoſe, and to that end the ſaid accounts and receipts ſhall be returned to the General Aſſembly of this government at their next meeting, after ſigning the ſaid bills: And the ſaid ſigners for their trouble, care and diligence in doing what is required of them by this act, ſhall each of them receive Ten Shillings for every thouſand bills by them ſo ſigned and numbered, to be paid them out of the intereſt money to ariſe in the Truſtees hands of the reſpective Loan Offices aforeſaid, to be paid by the ſaid Truſtees equally. And if any of the perſons, before nominated to be ſigners, ſhall happen to die or be rendered incapable of doing his or their duty by this act required, it ſhall and may be lawful for the Members of Aſſembly, of that county in this government where any ſuch death or incapacity ſhall happen, with the conſent of the Governor for the time being, to appoint another ſigner in the ſtead of ſuch perſon ſo dying or rendered incapable as aforeſaid; which ſaid perſon or perſons ſo to be appointed ſhall take the ſame qualifications as the ſigners in this act are appointed to take.

and allowance.

Truſtees of the Loan Offices appointed,

SECT. 8. *And be it further enacted by the authority aforeſaid*, That the ſum of Ten Thouſand Pounds of the ſaid bills of credit, being ſigned and numbered as aforeſaid, ſhall be by the ſaid ſigners put into the hands of Richard M'William, of New-Caſtle county, eſq. who is hereby conſtituted Truſtee of the General Loan Office of the ſaid county of New-Caſtle; and the ſum of Ten Thouſand Pounds of the ſaid bills of credit ſhall be put into the hands of Cæſar Rodney, of Kent county, eſq. who is hereby conſtituted Truſtee of the General Loan Office of the ſaid county of Kent; and the ſum of Ten Thouſand Pounds of the ſaid bills of credit ſhall be put into the hands of John Rodney, of Suſſex county, eſq. who is hereby conſtituted Truſtee of the General Loan Office of the ſaid county

who are to give bond, &c.

ty

ty of Suſſex; and that they the ſaid Truſtees and their ſucceſſors, and every of them, before they ſhall enter upon the execution of their truſt, or any part thereof, ſhall give and duly execute a bond to the Governor of theſe counties, for the time being and his ſucceſſors, with three ſufficient ſureties, ſuch as he ſhall approve of, in the ſum of Ten Thouſand Pounds, conditioned, for the faithful execution of the truſt and performance of all and every the acts, matters and things enjoined and required of them by this act; and ſhall alſo take an oath or affirmation, before ſome Juſtice of the Peace, to be endorſed on the ſaid bond in the words following, *to wit*;

and their qualifications thereon,

I A. B. *will, to the beſt of my ſkill and knowledge, faithfully, impartially and truly perform and diſcharge the truſt required of me by an act of General Aſſembly of this government, entitled, An act for emitting the ſum of Thirty Thouſand Pounds, in bills of credit, on loan, and providing a fund for the payment of public debts, ſo that none may be prejudiced by my conſent, privity or procurement; and that I will not lend out for, or apply or appropriate to, my own private uſe or benefit, or the uſe or benefit of any other perſon or perſons whatſoever, any of the monies to me intruſted, otherwiſe than according to the directions, true intent and meaning of the ſaid act.*

which are to be delivered to the Prothonotaries.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That the ſaid oath or affirmation ſo to be taken by the ſaid Truſtees, ſhall be endorſed on their reſpective bonds; which bonds with the endorſements aforeſaid ſhall be delivered to the reſpective Prothonotaries for the counties of New-Caſtle, Kent and Suſſex aforeſaid, to be by them recorded; and in caſe the ſaid bonds or any of them ſhall in anywiſe be forfeited, the ſame ſhall be ſued and proſecuted, and the penalties thereof recovered, for the benefit, advantage and uſe of the government.

Power and authority of Truſtees.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That the ſaid Truſtees reſpectively are hereby authoriſed and impowered to receive applications from borrowers, judge of, and determine the value of the lands and tenements, rents and hereditaments offered in mortgage, and the validity of their titles; and ſhall have capacity and power to take, hold and

enjoy

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enjoy unto them and their ſucceſſors in the ſaid truſt, all ſuch lands, tenements, rents and hereditaments as ſhall be granted them in mortgage, or which hath at any time heretofore been granted to any Truſtee or Truſtees of the General Loan Offices of this government, for ſecuring the re-payment of the money or bills formerly lent or hereby directed to be lent; and to ſell, grant, alien and diſpoſe of the ſame lands, tenements, rents and hereditaments in default of payment; and alſo to ſue, be ſued, and defend any ſuits brought againſt them, and generally to do, perform and execute all and every act, matter and thing neceſſary for the juſt and due performance and execution of the truſt repoſed in them by virtue of this or of any former act.

Before diſcharged to account and deliver up all bills, &c.

SECT. 11. *Provided alſo, and be it enacted by the authority aforeſaid*, That none of the Truſtees herein before appointed, or hereafter to be appointed, according to the direction of this act, or any of them, or any of their heirs, executors or adminiſtrators, or ſecurities hereby directed to be given, be acquitted or diſcharged, for any thing done or ſuffered in or about the truſt hereby committed to them, until they have accounted for and paid and delivered up, to the ſucceeding Truſtees, all bills of credit, monies, ſecurities, books of accounts, and other writings relating to or belonging to the reſpective Loan Offices aforeſaid, and ſo from time to time during the continuance of this act, any thing herein contained to the contrary notwithſtanding.

Sums to be lent on mortgage limited.

SECT. 12. *And be it enacted by the authority aforeſaid*, That the ſaid Truſtees ſhall lend out the ſaid ſum of Thirty Thouſand Pounds of the ſaid bills of credit, hereby directed to be made, in the reſpective counties of New-Caſtle, Kent and Suſſex, aforeſaid, in the proportions herein before mentioned, for and during the ſpace and unto the full end and term of ſixteen years, from the firſt day of January, in the year of our Lord One Thouſand Seven Hundred and Seventy-ſix. All which loans made by virtue of this act ſhall be made in ſums not exceeding Eighty Pounds nor leſs than Twenty Pounds to any one perſon upon mortgage of meſſuages, lands, tenements,

rents

rents and hereditaments, in this government, whereof the borrowers ſtand ſeized in fee-ſimple, in their own right, free from incumbrances, the proprietary quit-rents and other rents charged on the ſame, and diſcovered to the ſaid Truſtees, only excepted; and that the ſaid Truſtees ſhall inform themſelves, the beſt they can, of the validity of the titles, and of the clear value of all meſſuages, lands and ground-rents offered in ſecurity, ſo as to be ſatisfied that the lands and ground-rents are held in fee-ſimple, and are at leaſt of double the value of the ſums requeſted to be lent; and that as to meſſuages, erected upon ground, ſubject to the payment of ground-rent, offered in mortgage, care ſhall be taken by the ſaid Truſtees, that there be no rent in arrear at the time of receiving the ſame in mortgage, and that the ground ſhall be near equal in value, above the ground-rent, to the ſum lent, yet ſo that the houſe and ground be of treble the value, for the better ſecurity of the mortgage money: And thereupon the ſaid Truſtees, in purſuance of the truſt hereby committed to them, ſhall, in the reſpective names and ſtile of, *The Truſtee of the General Loan Office of the county of New-Caſtle, The Truſtee of the General Loan Office of the county of Kent, The Truſtee of the General Loan Office of the county of Suſſex*, and not otherwiſe, take and receive deeds of mortgage, in fee-ſimple, of ſuch meſſuages, lands, tenements, rents and hereditaments, with the appurtenances, to ſecure the repayment of the ſums they lend, to be made yearly on the firſt day of January, by equal payments, with the whole intereſt accrued, at the rate of Five Pounds *per cent. per annum.*

Mortgagors, under any former act, may renew their mortgages.

SECT. 13. *Provided always and it is hereby further enacted*, That the better to enable any of the mortgagors, by any former act of Aſſembly to diſcharge their mortgages, it ſhall and may be lawful to and for the ſaid Truſtees, and they are hereby required, to permit thoſe mortgagors, or their heirs, or ſuch other perſon or perſons to whom they have made over their right of redemption and eſtate in their mortgaged meſſuages, lands and rents, to renew their mortgages reſpectively, if they the ſaid Truſtees ſhall judge them a ſufficient ſecurity for the ſums thereon due and in arrear;

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arrear; Provided the ſame do not exceed Eighty Pounds as aforeſaid, according to the proportions and within the times by this preſent act limited and appointed.

Mortgagors may at any time pay off.

SECT. 14. *Provided alſo*, That if any mortgagor of any meſſuages, lands or rents, mortgaged in purſuance of this act, his heirs, executors, adminiſtrators or aſſigns, ſhall be inclined to pay off and diſcharge his mortgage and ſecurity at any other time than according to the time ſpecified in his mortgage deed, it ſhall be lawful for him, or them, ſo to do, by paying down the whole principal ſums due, and to become due, together with the intereſt and charges then accrued, on the firſt day of January, in any year, during the continuance of this act.

SECT. 15. *And be it further enacted by the authority aforeſaid*, That the principal ſums and all and ſingular the parts, parcels and quotas thereof, or any of them, payable to the Truſtees of the ſaid General Loan Offices, by any mortgagor or perſon whatſoever, ſhall not be ſunk or deſtroyed, otherwiſe, or at any other time, than by this preſent act is directed, limited and appointed; *(e)* any law, cuſtom or uſage, to the contrary notwithſtanding; but the ſame principal ſums, hereafter to be recovered or received by the ſaid Truſtees, before the firſt day of January, in the year of our Lord One Thouſand Seven Hundred and Eighty-eight, ſhall be, from time to time, again lent out, on ſecurities as herein before directed, for the reſidue of the aforeſaid term of ſixteen years. And alſo, ſo often as any mortgage monies, directed to be again lent out as aforeſaid, ſhall be recovered or received before the aforeſaid firſt day of January One Thouſand Seven Hundred and Eighty-eight, the principal monies thence ariſing ſhall, in like manner from time to time, be lent out again, on the like ſecurities as aforeſaid. *(f)* And the ſaid Truſtees, after the receipt of

Sect. 21. poſt.

No part of principal to be ſunk before the firſt of January, 1788.

(e) But ſee chap. 113. b. ſects. 2, 3, 4, 5. paſſed Feb. 5, 1785.—directing the exchange of all bills of credit theretofore emitted at the rate of One Pound for every Seventy-five Pounds brought in, which was limited, as to reſidents, to the firſt day of Auguſt then next, and as to non-reſidents, to the firſt day of November following, and thereafter to be burnt and deſtroyed.

(f) See alſo ſect. 6. of ſaid chap. 113. b. That mortgagors under any former act may renew their mortgages, and to have a deduction of intereſt, &c.

of the ſaid new bills, ſigned and numbered as aforeſaid, ſhall give due attendance at their reſpective offices, *That is to ſay*, At New-Caſtle, in the county of New-Caſtle, at Dover, in the county of Kent, and at Lewes, in the county of Suſſex, on every Wedneſday and Thurſday at leaſt in the firſt four months ſucceſſively, and afterwards ſhall duly attend at their ſaid offices on the firſt Wedneſdays and Thurſdays in January, May, Auguſt and December, in every year, during the continuance of this act, and at ſuch other times as their duty and truſt ſhall require.

SECT. 16. *And be it enacted by the authority aforeſaid*, That all and every of the ſaid deeds of mortgage ſhall be fairly entered in books of large paper, to be provided by the ſaid Truſtees; atteſted copies of which deeds, ſo entered and certified by the ſaid Truſtees, or any of them, for the time being, ſhall be, and are hereby declared to be good evidence, to prove the mortgages thereby mentioned to be made; and on every of the aforeſaid deeds of mortgage ſhall be endorſed or added, on oath or affirmation, to be taken by the mortgagor or mortgagors, before the ſaid Truſtees reſpectively, who are hereby impowered and required to adminiſter the ſame, *That he, ſhe or they, is or are ſeized of the hereditaments and premiſes thereby granted in his, her or their own right; and to his, her or their own uſe; and that free from any former gift, grant, ſale, mortgage, judgment or any other incumbrance, to the knowledge of ſuch mortgagor or mortgagors (the yearly quitrents thence iſſuing, payable to the chief lord or lords of the fee thereof, and ſuch other rents, if any, as are therein particularly mentioned and diſcovered to the Truſtees, only excepted.)* And the aforeſaid deeds, being ſo executed and acknowledged, ſhall transfer the poſſeſſion, and veſt the inheritance of and in ſuch mortgaged premiſes, to and in the ſaid Truſtees and their ſucceſſors, as fully and effectually as deeds of feoffment with livery and ſeizin, or deeds enrolled in any of the King's Courts of Weſtminſter may or can do. In all which deeds the words grant, bargain and ſell, ſhall be adjudged, in all places and courts whatſoever within this government, to have the force and effect of a covenant, that the mortgagor, notwithſtanding any act done by him, was at the

Affidavit to be taken by the mortgagors.

Expoſition of the covenant in the mortgage deeds.

CHAP. CCXXX. 1775.

the time of execution of ſuch deed, ſeized of the hereditaments and premiſes thereby granted of an indefeazible eſtate of inheritance, free from incumbrances, the rents ſo as aforeſaid to be diſcovered to the ſaid Truſtees, only excepted.

Mortgagors ſhall execute a bond and warrant of attorney.

SECT. 17. *And be it further enacted by the authority aforeſaid*, That, together with every of the aforeſaid mortgage deeds, the reſpective mortgagor ſhall execute a bond, of double the mortgage money, to the reſpective Truſtees aforeſaid, conditioned for the payment of the money borrowed, with the intereſt, according to the proviſo or condition contained in each ſuch mortgage deed; and alſo a warrant of attorney, impowering ſuch perſon or perſons, as the ſaid reſpective Truſtees ſhall appoint, to confeſs or ſuffer judgment, which the ſaid Truſtees are hereby required to cauſe their Attorney to enter, in any of the Courts of Common Pleas in this government, againſt ſuch mortgagor as ſhall make default in payment of the mortgage monies, or any part thereof, on the ſaid bonds or mortgages, for non-performance of the conditions thereof, or in ſuch actions of debt as the ſaid Truſtees are required to bring, for the value of the ſaid bills of credit received by the mortgagors, whoſe titles ſhall happen to prove defective, together with the intereſt and coſts of ſuit; in every of which warrant of attorney ſhall be inſerted a releaſe of errors by the mortgagor.

Mortgagors to enjoy the mortgaged premiſes until default in payment.

SECT. 18. *Provided always nevertheleſs*, That until ſome default be made in payment of ſome part of the mortgage monies by the mortgagors reſpectively, it ſhall and may be lawful to and for them and their heirs to hold and enjoy the mortgaged premiſes, any thing in this act, or in their mortgage deeds, to the contrary notwithſtanding; but if default ſhall be made or ſuffered in payment of any part of the mortgage monies aforeſaid, whether of the principal or intereſt, which the mortgagors, their heirs, executors, adminiſtrators or aſſigns, ſhould or ought to pay, according to the days of payment aforeſaid, in their reſpective deeds of mortgage ſpecified, the reſpective Truſtees, after ſix months next following ſuch default, made as aforeſaid, ſhall iſſue their precept to the Sheriff

Truſtees may ſell after ſix months default in payment.

riff of the county where the mortgaged premiſes ſhall lie, commanding him to enter upon the meſſuages, lands, rents and hereditaments reſpectively in the deeds of mortgage ſpecified, and the ſame, or ſuch part thereof as ſhall be ſufficient to diſcharge and ſatisfy the mortgage monies with the intereſt thereof, and coſts accruing on the ſale, to ſell, on the premiſes, by public auction or vendue, and convey to the higheſt bidder, after at leaſt thirty days public notice given of ſuch ſale by advertiſing them in the news-papers, and by affixing advertiſements in ſome of the moſt public places in the county; and out of the monies ariſing by ſuch ſale, to raiſe the principal ſums due, and to become due, with the intereſt, coſts and charges accrued, returning the overplus, if any, to the owners of ſuch lands and hereditaments; and alſo to pay and deliver the ſaid principal ſums and intereſt to the reſpective Truſtees, for the uſe of the government; which ſaid precept the ſaid Sheriff is hereby enjoined and required fully and impartially to execute; for which he ſhall have the ſame fees for advertiſing and ſale, as are allowed by law for the like ſervices, where lands are ſold by a writ of *venditioni exponas*, and no more.

SECT. 19. *And be it further enacted*, That the mortgagor and mortgagors of all ſuch lands as ſhall be ſold by virtue of this act, ſhall ſtand and be foreclоſed of and from all right of redemption of the ſame.

SECT. 20. *And be it further enacted by the authority aforeſaid*, That the ſaid Truſtees reſpectively ſhall endorſe upon each mortgage deed their receipts of all the yearly quotas paid by the reſpective mortgagors, diſtinguiſhing the principal ſum from the intereſt, which they ſhall alſo note on the counter parts to them produced when required; and upon the laſt payment thereof, the ſaid Truſtees ſhall enter in the margin of the enrolment of the mortgage deed, the time of the diſcharge thereof, for which, and for every receipt, they ſhall receive of the mortgagor Six-pence, and no more. And the ſaid Truſtees reſpectively ſhall keep diſtinct, fair and true accounts of all the ſums they receive by virtue of this or of any former

Truſtees ſhall endorſe receipts on mortgage deeds;

and keep fair accounts;

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act, and of what they lend, emit or pay by virtue of this act, or by orders of the Governor and Aſſembly, in regular day-books, journals and ledgers, to be fairly kept for thoſe purpoſes; and ſhall exhibit the ſame, together with their other vouchers, to the Committees of Aſſembly appointed for ſettling the public accounts, who ſhall adjuſt and ſettle the ſaid accounts, and report the ſame to the Houſe; and the ſaid Truſtees ſhall have and receive for their trouble and ſervice Thirty Pounds *per annum* each, during the continuance of their truſt, out of the intereſt money ariſing by this act.

Their ſalary.

To account with Committees of Aſſembly.

Sect. 21. *And be it further enacted by the authority aforeſaid*, That the reſpective Truſtees ſhall once in every year, or oftener, exhibit their accounts aforeſaid, and produce their ſaid books and other vouchers, together with all monies remaining in their hands, unto the Committees of Aſſembly of this government, to be appointed for that purpoſe, who ſhall count the ſaid money, and ſettle and adjuſt the ſaid accounts, and make report thereof to the Aſſembly; *(g)* and all the intereſt money by them from time to time received, being accounted for, and the ſalaries and charges allowed for by this act, being deducted, the reſidue of the intereſt money ariſing from the loan of the ſaid Thirty Thouſand Pounds ſhall be diſpoſed of as the Governor and Aſſembly of this government ſhall direct and appoint and not otherwiſe; and as for and concerning all yearly quotas and payments in the bills aforeſaid (part of the principal ſums to be emitted and re-emitted upon loan as this act directs) which by virtue hereof, or of any mortgage, or ſecurity, heretofore taken, or to be taken as aforeſaid, ſhall be recovered or received, and remaining in the hands of the reſpective Truſtees on the firſt day of January, which will

The intereſt money to be diſpoſed of by the Governor and Aſſembly.

How bills are to be deſtroyed.

(g) See chap. 74. b. paſſed Feb. 12, 1781. wherein is a ſpecial appointment of perſons to ſettle and ſtate all the accounts of the ſeveral Loan Offices in the ſtate, &c. from June 1, 1774. to June 1, 1781.—And ſee chap. 143. b. ſect. 1, &c. paſſed Feb. 3, 1787. authoriſing "The Auditor of Accounts" to call upon all perſons or their repreſentatives, who ſhall be poſſeſſed of any mortgages, pledges, or other ſecurities, monies, goods or effects, belonging to this ſtate, to account for the ſame.

will be in the year of our Lord One Thouſand Seven Hundred and Eighty-eight, the ſaid reſpective Truſtees ſhall from time to time, as they come to their hands, exhibit the ſaid bills of credit to the aforeſaid Committees of Aſſembly, who, having duly examined and compared the ſame, ſhall cauſe the ſame to be burnt and deſtroyed in their preſence. And the ſaid Committees of the reſpective counties within this government ſhall have for their ſaid ſervices the ſum of Five Pounds each; to be paid them annually out of the intereſt money ariſing in the ſaid offices.

Committees allowance.

Sect. 22. *And*, the better to prevent inconveniences ariſing from indulging the mortgagors to be behind in their payments hereby directed to be made, *Be it further enacted by the authority aforeſaid*, That the Truſtees for the time being ſhall, and they are hereby required to keep the mortgagors aforeſaid up to their annual payments, as by this act is directed and appointed; and the Committees of Aſſembly, to be annually appointed to audit the ſaid Truſtees accounts, are hereby directed not to allow of any quotas in arrear and unpaid which have been due eighteen months at the time of the ſettlement, but to conſider and report the ſame as monies in the hands of the ſaid Truſtees, for which the ſaid Truſtees ſhall be accountable, excepting only ſuch ſums for which the ſaid Truſtees have commenced ſuits, or otherwiſe have proceeded, according to the direction of this act, for the recovery of the money due.

Truſtees to keep mortgagors up to their annual payment.

Sect. 23. *And be it further enacted by the authority aforeſaid*, That if any of the ſaid Truſtees herein before appointed, or hereafter to be appointed by virtue of this act, ſhall neglect or refuſe to act as Truſtee, or ſhall happen to die, or be removed for miſfeazance in his office, ſome other fit perſon ſhall be appointed by the Governor and Aſſembly, in the place or places of ſuch Truſtee or Truſtees, unleſs ſuch neglect, refuſal, death or removal, ſhall happen at a time when there may be no Governor or Lieutenant Governor in this government; in which caſe, and not otherwiſe, ſome other fit perſon or perſons ſhall be appointed by the Aſſembly; and the ſaid Truſtee or Truſtees, ſo to be appointed, ſhall have, hold and exerciſe the

How Truſtees ſhall be appointed in caſe of delinquency.

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same powers and authorities, to all intents and purposes, as if he or they were appointed by this act.

Trustees to continue four years.

SECT. 24. *Provided always*, That none of the said Trustees, appointed in and by virtue of this act, shall continue in the exercise of their said offices longer than the space of four years, from the time of the commencement of their said trust, and from thence until a new nomination and appointment shall be made by the Governor and Assembly; any thing in this act to the contrary notwithstanding. *(b)*

Dying in the recess of Assembly how to be supplied.

SECT. 25. *Provided also*, That if any of the said Trustees shall happen to die in the recess of Assembly, then it shall and may be lawful for the Members of Assembly of that county in this government where any such death shall happen, with the consent of the Governor or Lieutenant Governor, if any, for the time being, to appoint some other fit person as Trustee in the stead, and for the residue of the same term, of the person so dying, and the Trustee so to be appointed shall have the same powers as aforesaid.

Trustees to choose Clerks;

SECT. 26. *And be it further enacted by the authority aforesaid*, That the said Trustees shall, for the better regulating of their said offices, choose and employ a fit and able person for their Clerk during their pleasure, for whom they shall be answerable, who shall

their duty,

prepare the deeds of mortgage, with mortgagors affidavits, bonds, warrants of attorney and release of errors, and shall have and receive the following fees,

and fees.

and no more, *to wit*, For every mortgage deed, recording the same, counterpart or copy thereof, the mortgagor's oath or affirmation endorsed on the mortgage deed, and the bond, warrant of attorney, and release of errors, the sum of Fifteen Shillings, and no more; to be paid by the said Trustees out of the interest money aforesaid; and the said Clerks shall keep true accounts of the names of all persons applying to borrow on securities, as this act directs, and shall record

(b) For after nominations and appointments of such Trustees, &c. see chap. 1. b. sect. 7. passed February 22, 1777—chap. 51. b. passed December 25, 1779—chap. 74. b. sect. 3. passed February 12, 1781—chap. 113. b. sect. 14. passed February 5, 1785—chap. 192. b. passed February 3, 1789—chap. 217. b. passed January 1791—chap. 41. c. passed June 19. 1793—and chap. 75. c. passed January 1795.

cord their deeds of mortgage in the ſame order of time as they were executed; and ſhall, once a year, make out a liſt of the names of all mortgagors, with the ſums they borrow, and date of their mortgage deeds, and the ſame liſts ſhall deliver to the Committees of Aſſembly to be appointed Auditors of the ſaid Truſtees accounts: But before any perſon ſo choſen to be Clerk ſhall enter upon the execution of his office, he ſhall take an oath or affirmation before ſome Juſtice of the Peace, *That he will truly and faithfully perform the office and duty that is directed and required of him by this act, wherein he will make no undue preference, unneceſſary delays, or fraudulent practices.*

Clerk's qualification.

SECT. 27. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons ſhall preſume to counterfeit any of the ſaid bills of credit, directed to be emitted by this act, by printing, or procuring the ſame to be printed, in the likeneſs of the ſaid genuine bills of credit; and alſo, if any perſon or perſons ſhall forge the name or names of the ſigners of the true bills of credit, to ſuch counterfeit bills, whether the counterfeiting of the ſaid bills, or names, be done within this government, or elſewhere, or ſhall utter ſuch bills, knowing them to be ſo counterfeited as aforeſaid, and being thereof legally convicted by confeſſion, ſtanding mute, or by the verdict of twelve men, in any Court of Oyer and Terminer within this government, he, ſhe or they ſhall ſuffer death without benefit of clergy; and the diſcoverer or informer ſhall have, as an encouragement for his diſcovery, the ſum of Fifty Pounds, to be levied out of the goods and chattels, lands and tenements of the perſon convicted; and if no ſuch goods and chattels can be found, then the Truſtees of the General Loan Office ſhall pay to ſuch informer or diſcoverer, his executors, adminiſtrators or aſſigns, the ſum of Ten Pounds. And if any perſon or perſons ſhall counterfeit any of the ſaid bills of credit of this government, by altering the denomination of the ſaid bills, with deſign to encreaſe the value of ſuch bills, or ſhall utter ſuch bills, knowing them to be ſo counterfeited or altered as aforeſaid, and ſhall thereof be legally convicted in any Court of Record in this government,

Counterfeiting the bills of credit, &c. death without benefit of clergy.

Informer to receive 50l.

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ſuch perſon or perſons ſhall be ſentenced to the pillory, and have both his or her ears cut off, and nailed to the pillory, and be publicly whipped on his or her bare back, with thirty one laſhes well laid on; and moreover, every ſuch offender ſhall forfeit the ſum of One Hundred Pounds, lawful money of this Government, to be levied on his or her lands and tenements, goods and chattels; the one half to the uſe of the Governor, and the other half to the diſcoverer; and the offender ſhall pay to the party grieved, double the value of the damages thereby ſuſtained, together with the coſts and charges of proſecution; and in caſe the offender hath not ſufficient to ſatisfy the diſcoverer for his or her damages and charges, and pay the forfeiture aforeſaid, in ſuch caſe, the offender ſhall, by order of the court where he or ſhe ſhall be convicted, be ſold for any term, not exceeding ſeven years, for ſatisfaction; and in ſuch caſe the ſaid Truſtees ſhall reward the diſcoverer of ſuch inſolvent offender, to the value of Five Pounds, out of the intereſt money which ſhall be in their hands. And every ſuch counterfeit bill ſhall be delivered to the ſaid Truſtees, to be burnt or deſtroyed by them, in the preſence of a Committee of Aſſembly.

Perſons altering the denomination of ſaid bills to be pillored, &c.

Made a public act.

SECT. 28. *And it is hereby declared and enacted by the authority aforeſaid*, That this act ſhall be taken and allowed, in all courts and places within this government, as a public act, and all judges, juſtices, and other perſons concerned, are hereby required to take notice thereof as ſuch, without pleading the ſame ſpecially.

The proportion act repealed.

SECT. 29. *And be it enacted by the authority aforeſaid*, That an act of Aſſembly, entitled, *An act for aſcertaining the proportion of the government charges hereafter to be paid by the ſeveral counties of* New-Caſtle, Kent and Suſſex, on Delaware, paſſed in the fifteenth year of his late Majeſty's reign, *(i)* ſhall be, and the ſame is hereby repealed.

Paſſed September 2, 1775.

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(i) Chap. 92. a.

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A Supplementary ACT *to the act, entitled,* An act for the more effectual aſcertaining and fixing the limits of the ſeveral counties within this government, and for remedying ſome inconveniencies that may ariſe by the late eſtabliſhment of the boundaries and diviſional lines between the ſame and Maryland.

Preamble.

WHEREAS at the time of iſſuing the proclamation, bearing date on the eighth day of April laſt paſt, mentioned in the act to which this preſent act is a ſupplement, *(a)* ſundry judgments as well interlocutory, as final, had been obtained againſt ſundry perſons inhabiting and ſettled on lands at that time under the juriſdiction of the province of Maryland, and which now, in virtue of the ſaid proclamation, and the ſaid act of Aſſembly, are fallen within the juriſdiction of this government; and divers public taxes, ſtipends, allowances, aſſeſſments and officers fees were due from the ſaid inhabitants, and in arrear and unpaid; and in many caſes letters of adminiſtration, and letters teſtamentary, had been obtained upon the eſtates of inteſtates, and teſtators, at the time of their death inhabiting the lands aforeſaid, which eſtates remain unſettled, and the accounts of them unadjuſted; and many guardianſhips of the eſtates of orphans had been undertaken, and ſecurity given for the true performance of the office of ſuch guardians according to the laws of the ſaid province of Maryland; Now for the relief and ſecurity of the ſeveral creditors both public and private, and others concerned in ſuch judgments, ſtipends, allowances, taxes, aſſeſſments and officers fees, and of the ſeveral orphans, wards and others concerned in the truſts of ſuch executors, adminiſtrators and guardians,

SECTION 2. *BE it enacted by the honorable John Penn, eſq. with his Majeſty's royal approbation, Governor and Commander in Chief of the counties of New-*

(a) For the original act, ſee chap. 229. a.

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New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame, That any plaintiff or plaintiffs, having a judgment obtained as aforeſaid at the time aforeſaid, or his, her, or their executors or adminiſtrators, ſhall and may procure a tranſcript of ſuch judgment from the Clerk of the Provincial or County Court where the ſame was had and recorded, and lay the ſame before the Court of Common Pleas of the county within this government where the defendant in ſuch judgment ſhall reſide, which judgments the ſaid court ſhall cauſe to be ſhortly entered upon their dockets, and the ſame ſhall from thenceforth be a judgment of the ſaid Court of Common Pleas where the ſame ſhall be ſo docketed, and the plaintiff or plaintiffs aforeſaid, or his, her, or their executors or adminiſtrators, ſhall and may proceed to writs of enquiry, or execution thereon, as the caſe may require, according to the laws of this government; and upon *non eſt inventus* returned againſt the principal in the ſaid judgment upon a *capias ad ſatisfaciendum* iſſued againſt ſuch defendant, the ſaid court ſhall and may proceed againſt the ſpecial bail of ſuch defendant (having firſt obtained a tranſcript of the recognizance of bail and filed the ſame as aforeſaid) agreeable to the laws of this government.

Tranſcripts of judgments obtained in the courts in Maryland againſt perſons reſident on the lands fallen into this government, may be docqueted in the courts here and proceeded on, &c.

SECT. 3. *Provided always,* That the lands and real eſtate of ſuch defendant ſhall be, and remain, liable to ſuch judgment from the time the ſame was obtained in the Court of Maryland, in the ſame manner as if the juriſdiction aforeſaid had not as aforeſaid been changed: *And provided alſo,* That if ſuch judgment at the time aforeſaid was of above one year's ſtanding, the ſame, after tranſcript and entry as aforeſaid in the court of this government, ſhall be revived by *ſcire facias* in the ſame manner it muſt have been revived had the juriſdiction not have been changed as aforeſaid: *And provided alſo,* That nothing in this act contained ſhall be deemed, taken or conſtrued to deprive any of the ſaid defendants, their heirs, executors or adminiſtrators of their right or liberty of proſecuting their

A lien on the lands, &c.

If of one years ſtanding to be revived by Scire Facias.

Saving to defendants, &c. writs of error, &c.

their writs of error upon, or obtaining injunctions againſt ſuch judgments, or moving againſt them as being obtained by fraud, practice or ſurprize.

Inventories to be returned and accounts ſettled here though the letters, &c. granted in Maryland, if not done there, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all ſuch executors and adminiſtrators as have taken adminiſtration or letters teſtamentary on the eſtates of inteſtates and teſtators, who inhabited the ſaid lands, and have not returned inventories, or adjuſted their accompts, ſhall return inventories to the reſpective Regiſters for the probate of wills and granting letters of adminiſtration, and adjuſt their accompts with the ſeveral Orphans Courts of the counties where they reſide within this government; which ſaid eſtates of inteſtates aforeſaid ſhall be diſtributed by the ſaid Orphans Courts to ſuch perſon or perſons as ſhall be intitled to the ſame by the laws of the ſaid province of Maryland: And all legacies mentioned, or contained in any laſt will or teſtament of any of the ſaid inhabitants, where letters teſtamentary were obtained before the time aforeſaid, ſhall be recoverable againſt ſuch executors according to the laws of this government. And that all bonds and other ſecurities entered into by ſuch executors or adminiſtrators for the due adminiſtration of the eſtates of inteſtates, or teſtators, may be ſued in this government againſt any ſuch executors and adminiſtrators, and their reſpective ſureties, for breach of their duty according to the laws of Maryland: And in any action or actions brought upon ſuch bonds, or other ſecurity, it ſhall and may be lawful for the party intereſted therein to commence an action, or actions, in this government in the name of the proprietary of Maryland for the time being, and to proceed to judgment and execution thereon, and to produce in evidence the ſaid original bond, or other ſecurity, or a copy thereof under the ſeal of the prerogative court of that province, in ſupport of ſuch action. And that all guardians of the eſtates of the orphans of ſuch inhabitants as aforeſaid, who entered into their guardianſhip before the time aforeſaid, ſhall be accountable to their wards in the ſame manner they would have been in caſe the juriſdiction under which they took the ſaid truſt upon them had continued, and their bonds, or other ſecurities, may be ſued within

Diſtribution according to the laws of Maryland.

Legacies how recoverable.

Bonds of executors and adminiſtrators heretofore given how to be proceeded on.

Guardians how to account.

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this government, and actions upon them ſupported, in the ſame manner as herein before is ordered with reſpect to the bonds of executors and adminiſtrators.

Public taxes, &c. may be levied by Sheriffs of Maryland.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That all public dues, ſtipends, taxes, aſſeſſments and officers fees, which at the time aforeſaid were due from, and unpaid by, the inhabitants reſiding upon the lands fallen within this government by the change of juriſdiction aforeſaid, ſhall and may be recovered and levied by the reſpective Sheriffs of the province of Maryland in the ſame manner as if the change of juriſdiction had not happened.

Lands of inteſtates dying before, &c. to deſcend according to the laws of Maryland.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That where any perſon, whoſe land by the change of juriſdiction aforeſaid is fallen within this government, died inteſtate before the time aforeſaid, ſuch land, and other real eſtate, of ſuch perſon dying inteſtate before the time aforeſaid, ſhall be deemed and taken in law to deſcend to the perſon or perſons intitled to the ſame, according to the laws of the ſaid province of Maryland. *And* where no adminiſtration of the eſtate of ſuch perſon was obtained before the time aforeſaid, the ſame may be obtained of the Regiſter for the probate of wills and granting letters of adminiſtration of the county of this government into which the ſaid lands have fallen, or ſhall fall, and the perſonal eſtate be diſtributed according to the laws of Maryland.

So of perſonal eſtate.

And where the adminiſtration account of the eſtate of any teſtator or inteſtate, who lived on the lands aforeſaid, hath been made up and adjuſted in the proper office in Maryland, but the perſon or perſons intitled to the balance thereof hath, or have, not yet been paid or ſatisfied, the teſtamentary or adminiſtration bond of ſuch eſtate may be ſued in this government to inforce the payment of ſuch balance, and actions thereon ſupported in the ſame manner as herein before is directed in caſes of unfiniſhed adminiſtrations.

Teſtamentary and adminiſtration bonds may be ſued to inforce payment of balances of deceaſed's eſtates.

Paſſed October 28, 1775.

END OF THE FIRST VOLUME.

APPENDIX,

CONTAINING

Various Public Papers,

INCLUDING

CERTAIN LEGISLATIVE ACTS, WHICH, ALTHOUGH EXPIRED, ALTERED, OR REPEALED, ARE NECESSARY TO BE KNOWN AND PRESERVED.

The Duke of York's Deed of Feoffment of New-Caſtle, and twelve miles circle, to William Penn.

August 24, 1682.

THIS indenture, made the four and twentieth day of Auguſt, in the four and thirtieth year of the reign of our Sovereign Lord Charles the Second, by the grace of God of England, Scotland, France and Ireland, King, defender of the faith, &c. *annoque Domini* One Thouſand Six Hundred and Eighty-two, between the moſt illuſtrious Prince his Royal Highneſs James Duke of York and Albany, Earl of Ulſter, &c. of the one part, and William Penn, eſq. ſon and heir of Sir William Penn, Knight, deceaſed, of the other part, witneſſeth, That his ſaid Royal Highneſs, out of a ſpecial regard to the memory and many faithful and eminent ſervices heretofore performed by the ſaid Sir William Penn to his ſaid Majeſty and Royal Highneſs; and for the good will which his ſaid Royal Highneſs hath and beareth to the ſaid William Penn; and for and in conſideration

1682. of the ſum of Ten Shillings to him in hand paid by the ſaid William Penn at and before the enſealing and delivery hereof, the receipt whereof is hereby acknowledged; and for other good cauſes and conſiderations, doth bargain, ſell, enfeoff and confirm unto the ſaid William Penn, his heirs and aſſigns for ever, all that the town of New-Caſtle, otherwiſe called Delaware, and all that tract of land lying within the compaſs or circle of twelve miles about the ſame, ſituate, lying, and being upon the river Delaware, in America; and all iſlands in the ſaid river Delaware, and the ſaid river and ſoil thereof, lying north of the ſouthermoſt part of the ſaid circle of twelve miles about the ſaid town, together with all rents, ſervices, royalties, franchiſes, duties, juriſdictions, liberties and privileges thereunto belonging; and all the eſtate, right, title, intereſt, powers, property, claim and demand whatſoever of his ſaid Royal Highneſs, of, in, or to, the ſame, or any part or parcel thereof: Saving always and reſerving to his ſaid Royal Highneſs, his agents and ſervants, free uſe of all ports, ways and paſſages into, through and out of the bargained premiſes, and every part and parcel thereof; To have and to hold the ſaid town and circle of twelve miles of land about the ſame, iſlands, and all other the before mentioned or intended to be hereby bargained premiſes, with their appurtenances, unto the ſaid William Penn, his heirs and aſſigns, to the only uſe and behoof of him the ſaid William Penn, his heirs and aſſigns, for ever, yielding and paying therefore yearly and every year unto his ſaid Royal Highneſs, his heirs and aſſigns, the ſum of Five Shillings of lawful money of England, at the feaſt of St. Michael the Archangel only. *And* the ſaid William Penn, for himſelf, his heirs and aſſigns, doth covenant and grant to and with his ſaid Royal Highneſs, his heirs and aſſigns, by theſe preſents, that he the ſaid William Penn, his heirs and aſſigns, ſhall and will well and truly pay, or cauſe to be paid to his ſaid Royal Highneſs, his heirs and aſſigns, the ſaid yearly rent of Five Shillings at the days whereon the ſame is reſerved to be paid as aforeſaid. *And* his ſaid Royal Highneſs for himſelf, his heirs and aſſigns, doth covenant

venant and grant to and with the ſaid William Penn, his heirs and aſſigns, by theſe preſents, that his ſaid Royal Highneſs, his heirs and aſſigns, will at any time or times hereafter, during the ſpace of ſeven years next enſuing the date hereof, upon the requeſt, and at the coſts and charges in the law of the ſaid William Penn, his heirs and aſſigns, do, make, and execute, or cauſe or procure to be made, done and executed, all and every ſuch further act and acts, conveyances and aſſurances in the law whatſoever, for the further conveying and aſſuring the ſaid town and circle of twelve miles of land about the ſame, and iſlands, and all other the premiſes, with the appurtenances, unto the ſaid William Penn, his heirs and aſſigns, for ever, as by the counſel learned in the law of the ſaid William Penn, his heirs or aſſigns, ſhall be reaſonably deviſed, adviſed, or required. *And* his ſaid Royal Highneſs hath hereby made, conſtituted and appointed John Moll of New-Caſtle aforeſaid, eſq. and Ephraim Harman of New-Caſtle aforeſaid, gentleman, jointly, and either of them ſeverally, his true and lawful Attornies; and by theſe preſents doth give and grant unto the ſaid John Moll and Ephraim Harman, his ſaid Attornies, or either of them, full power and authority for him, and in his name and ſtead, into all and ſingular the premiſes herein before mentioned, or intended to be hereby alienedenſeoffed and confirmed, and into every, or any part or parcel thereof, in the name of the whole, to enter, and quiet and peaceable poſſeſſion and ſeiſin thereof, or of any part or parcel thereof, in the name of the whole, to enter and receive. And after peaceable poſſeſſion thereof had and taken as aforeſaid, to deliver quiet and peaceable poſſeſſion and ſeiſin thereof, or of any part or parcel thereof, in the name of the whole, to the ſaid William Penn, his heirs or aſſigns, or to his or their lawful Attorney or Attornies, ſufficiently authoriſed to receive and take the ſame, and him or them to leave in the quiet and peaceable poſſeſſion thereof, according to the true intent and meaning of theſe preſents. *And* his ſaid Royal Highneſs doth hereby allow of, ratify and confirm whatſoever the ſaid John Moll and Ephraim Harman, his ſaid Attornies, 1682.

1682. Attornies, ſhall lawfully do, or cauſe to be done in and about the premiſes, by virtue of theſe preſents, to be as good and effectual in the law, to all intents and purpoſes whatſoever, as if his ſaid Royal Highneſs had done the ſame in his own perſon, or had been preſent at the doing thereof. In witneſs whereof his ſaid Royal Highneſs hath to theſe preſents ſet his hand and ſeal, the day and year firſt above written.

JAMES. (L. S.)

Sealed and delivered in the preſence of

J. WERDEN,
GEORGE MANN.

August 24. 1682. *The Duke of York's Deed of Feoffment of a tract of land twelve miles ſouth from New-Caſtle to the Whorekills, to William Penn.*

THIS indenture, made the four and twentieth day of Auguſt, in the four and thirtieth year of the reign of our Sovereign Lord Charles the Second, by the grace of God of England, Scotland, France and Ireland, King, defender of the faith, *&c. annoque Domini* One Thouſand Six Hundred and Eighty-two, between the moſt illuſtrious Prince his Royal Highneſs James Duke of York and Albany, Earl of Ulſter, *&c.* of the one part, and William Penn, eſq. ſon and heir of Sir William Penn, Knight, deceaſed, of the other part, witneſſeth, That his ſaid Royal Highneſs, out of a ſpecial regard to the memory and many faithful and eminent ſervices heretofore performed by the ſaid Sir William Penn to his ſaid Majeſty and Royal Highneſs; and for the good will which his ſaid Royal Highneſs hath and beareth to the ſaid William Penn; and for and in conſideration of the ſum of Ten Shillings to him in hand paid by the ſaid William Penn at and before the enſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged; and of the rent and covenants herein

herein after reſerved and contained, doth bargain, ſell, enfeoff and confirm unto the ſaid William Penn, his heirs and aſſigns, for ever, all that tract of land upon Delaware river and bay, beginning twelve miles ſouth from the town of New-Caſtle, otherwiſe called Delaware, and extending ſouth to the Whorekills, otherwiſe called Cape Henlopen, together with free and undiſturbed uſe and paſſage into and out of all harbours, bays, waters, rivers, iſles, and inlets, belonging to, or leading to the ſame; together with the ſoil, fields, woods, underwoods, mountains, hills, fens, iſles, lakes, rivers, rivulets, bays and inlets, ſituate in, or belonging unto, the limits and bounds aforeſaid; together with all ſorts of minerals; and all the eſtate, intereſt, royalties, franchiſes, powers, privileges and immunities whatſoever of his ſaid Royal Highneſs therein, or in, or unto any part or parcel thereof: Saving always and reſerving to his ſaid Royal Highneſs, his agents and ſervants, free uſe of all ports, ways and paſſages into, through and out of the ſaid bargained premiſes, and every part and parcel thereof; To have and to hold the ſaid tract of land, and all and ſingular other the premiſes, with the appurtenances, unto the ſaid William Penn, his heirs and aſſigns, to the only uſe and behoof of him the ſaid William Penn, his heirs and aſſigns, for ever, to be holden of his ſaid Royal Highneſs and his heirs, as of their caſtle of New-York, in free and common ſoccage, yielding and paying therefor yearly and every year, to his ſaid Royal Highneſs, his heirs and aſſigns, one roſe, at the feaſt of St. Michael the Archangel, yearly, if demanded. *And* the ſaid William Penn, for himſelf, his heirs and aſſigns, doth covenant and agree to and with his ſaid Royal Highneſs, his heirs and aſſigns, that he the ſaid William Penn, his heirs or aſſigns, ſhall and will, within the ſpace of one year next enſuing the date of theſe preſents, erect, or cauſe to be erected, and ſet up, one or more public Office or Offices of Regiſtry in or upon the ſaid bargained premiſes, wherein he, or they, or ſome of them, ſhall and will, amongſt other things, truly and faithfully account, ſet down, and regiſter, all and all manner of rents, and other profits, which

1681.

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1682. he, or they, or any of them, ſhall by any ways or means make, raiſe, get, or procure, of, in, or out of the ſaid bargained premiſes, or any part or parcel thereof: And ſhall and will at the feaſt of St. Michael the Archangel yearly, and every year, well and truly yield, pay, and deliver, unto his ſaid Royal Highneſs, his heirs and aſſigns, one full moiety of all and all manner of rents, iſſues and profits, as well extraordinary as ordinary, as ſhall be made or raiſed upon, or by reaſon of, the premiſes, or any part thereof. And if it ſhall happen the ſame ſhall be behind, and unpaid, in part, or in all, by the ſpace of twenty days next after the ſame ought to be yielded, paid, or delivered, that then, and ſo often, it ſhall be lawful to and for his ſaid Royal Highneſs, his heirs and aſſigns, to enter in and upon the ſaid premiſes, or any part or parcel thereof, and there to diſtrain, and the diſtreſs and diſtreſſes there taken, to take and detain, until the ſaid moiety and arrears thereof ſhall be well and truly ſatisfied and paid, together with all coſts and damages for the ſame. *And* his ſaid Royal Highneſs for himſelf, his heirs and aſſigns, doth covenant and grant to and with the ſaid William Penn, his heirs and aſſigns, by theſe preſents, that his ſaid Royal Highneſs, his heirs and aſſigns, will, at any time or times hereafter, during the ſpace of ſeven years next enſuing the date hereof, upon the requeſt, and at the coſts and charges in the law of the ſaid William Penn, his heirs and aſſigns, do, make, and execute, or cauſe or procure to be made, done and executed, all and every ſuch further act and acts, conveyances and aſſurances, in the law whatſoever, for the further conveying and aſſuring the ſaid tract of land, and all and ſingular other the premiſes, with the appurtenances, unto the ſaid William Penn, his heirs and aſſigns, for ever, as by the counſel learned in the law of the ſaid William Penn, his heirs or aſſigns, ſhall be reaſonably deviſed, adviſed, or required. *And* his ſaid Royal Highneſs hath hereby made, conſtituted and appointed John Moll of New-Caſtle aforeſaid, eſq. and Ephraim Harman of New-Caſtle aforeſaid, gentleman, jointly, and either of them ſeverally, his true and lawful Attornies; and by theſe preſents

doth

doth give and grant unto the ſaid John Moll and Ephraim Harman, his ſaid Attornies, or either of them, full power and authority for him, and in his name and ſtead, into all and ſingular the premiſes herein before mentioned, or intended to be hereby aliened, enfeoffed and confirmed, and into every, or any part or parcel thereof, in the name of the whole, to enter, and quiet and peaceable poſſeſſion and ſeiſin thereof, or of any part or parcel thereof, in the name of the whole, to take and receive. And after peaceable poſſeſſion thereof had and taken as aforeſaid, to deliver quiet and peaceable poſſeſſion and ſeiſin thereof, or of any part or parcel thereof, in the name of the whole, to the ſaid William Penn, his heirs or aſſigns, or to his or their lawful Attorney or Attornies, ſufficiently authoriſed to receive and take the ſame, and him or them to leave in the quiet and peaceable poſſeſſion thereof, according to the true intent and meaning of theſe preſents. *And* his ſaid Royal Highneſs doth hereby allow of, ratify and confirm, whatſoever the ſaid John Moll and Ephraim Harman, his ſaid Attornies ſhall lawfully do, or cauſe to be done, in and about the premiſes, by virtue of theſe preſents, to be as good and effectual in the law, to all intents and purpoſes whatſoever, as if his ſaid Royal Highneſs had done the ſame in his own perſon, or had been preſent at the doing thereof. In witneſs whereof his ſaid Royal Highneſs hath to theſe preſents ſet his hand and ſeal, the day and year firſt above written. 1682.

JAMES. (L. S.)

Sealed and delivered in the preſence of

J. WERDEN,

GEORGE MANN.

34 Charles II. A. D. 1682.

An ACT *of union, for annexing and uniting of the counties of New-Caſtle, Jones's, and Whorekills, alias New-Dale, to the province of Pennſylvania; and of naturalization of all foreigners, in the ſaid province and counties annexed.*

SINCE by the good Providence of God, it hath graciouſly pleaſed King Charles the II. of England, *&c.* for divers good conſiderations, to grant by his letters patents, under the Great Seal of England to William Penn, eſq. ſon and heir of Sir William Penn, deceaſed, and to his heirs and aſſigns for ever, this province of Pennſylvania, according to the bounds therein expreſſed; with all requiſite powers for the good government thereof, by ſuch laws as he and they ſhall make, by and with the advice and conſent of the freemen of the ſaid province or their deputies, not repugnant to their faith and allegiance to the legal government of the ſaid realm: And it having alſo favourably pleaſed James, Duke of York and Albany, Earl of Ulſter, *&c.* to releaſe his right and claim to all and every part thereof, unto the ſaid William Penn, his heirs and aſſigns; whereby he, the ſaid William Penn is become the undoubted and rightful Proprietary and Governor of the province of Pennſylvania, and is hereby freely and fully ſo recognized and acknowledged. And as a beneficial and requiſite addition to the territory of the ſaid Proprietary and Governor, it hath alſo pleaſed the ſaid James, Duke of York and Albany, *&c.* for divers good conſiderations, to grant unto the ſaid William Penn, and his heirs and aſſigns, all that tract of land, from twelve miles northward of New-Caſtle, on the river Delaware, down to the ſouth-cape, commonly called Cape Henlope, and by the Proprietary and Governor now called Cape James, lying on the weſt ſide of the ſaid river and bay, formerly poſſeſſed by the Dutch, and bought by them of the natives, and firſt ſurrendered upon articles of peace to the King's Lieutenant Governor, Colonel Nicholls, and a ſecond time to Sir Edmund Androſſe, Lieutenant Governor to the ſaid Duke, and hath been by him quietly poſſeſſed and enjoyed; as alſo the ſaid river of Delaware, and

ſoil

ſoil thereof, and all iſlands therein, lately caſt into three counties, called New-Caſtle, Jones's and Whorekills, *alias* New-Dale; together with all royalties, powers and juriſdictions thereunto belonging, as by two deeds of feoffment, bearing date the twenty-fourth of the ſixth month called Auguſt, One Thouſand Six Hundred and Eighty-two, doth more at large appear. And foraſmuch as there muſt always be a people before there can be a government, and that people muſt be united and free, in order to ſettle and encourage them, for the proſperity of the government: And ſince the inhabitants of the tract of land, lately paſſed from the Duke, as aforeſaid, are not yet thereby under the ſame capacity that thoſe are that belong to the province of Pennſylvania: *And whereas* the freemen of the ſaid counties have, by their deputies, humbly beſought their preſent Proprietary and Governor, to annex the ſaid counties to the province of Pennſylvania, and to grant unto them the ſame privileges; and that they may live under the ſame laws and government that the inhabitants of the ſaid province of Pennſylvania, now do, or hereafter ſhall enjoy: *And* ſince the union of the two diſtinct people that are under one Governor, is both moſt deſirable in itſelf and beneficial to the public, and that it cannot be ſo cordially and durably maintained, to the mutual benefits of each other, as by making them equally ſharers in benefits and privileges;

34 Charles II. A. D. 1682.

BE it enacted by the Proprietary and Governor aforeſaid, by and with the advice and conſent of the deputies of the freemen of the province, and counties aforeſaid, in Aſſembly met, That the counties of New-Caſtle, Jones's, and Whorekills, *alias* New-Dale, ſhall be annexed, and by the authority aforeſaid, are hereby annexed unto the province of Pennſylvania, as of the proper territory thereof; and the people therein ſhall be governed by the ſame laws, and enjoy the ſame privileges in all reſpects, as the inhabitants of Pennſylvania do, or ſhall enjoy from time to time therein, any thing in this law, or any other law, act or thing in this province, to the contrary thereof in anywiſe notwithſtanding. *And* foraſmuch as it is apparent, that the juſt encouragement of the inhabitants of this province,

The three lower counties annexed to the province.

34 Charles II. A. D. 1684.

vince, and territories thereunto belonging, is likely to be an effectual way for the improvement thereof: And ſince ſome of the people that live therein, and are like to come thereinto, are foreigners, and ſo not freemen, according to the acceptation of the laws of England, the conſequences of which may prove very detrimental to them in their eſtates and traffic, and ſo injurious to the proſperity of this province, and territories thereof, *Be it enacted by the Proprietary and Governor of the province, and counties aforeſaid, by and with the advice and conſent of the deputies of the freemen thereof, in Aſſembly met*, That all perſons, who are ſtrangers and foreigners, that now do inhabit this province, and counties aforeſaid, that hold land in fee in the ſame, according to the law of a freeman, and who ſhall ſolemnly promiſe, within three months after the publication hereof, in their reſpective county courts where they live, upon record, faith and allegiance unto the King of England, and his heirs and ſucceſſors; and fidelity and lawful obedience to the ſaid William Penn, Proprietary and Governor of the ſaid province and territories, and his heirs and aſſigns, according to the King's letters patents, and deeds aforeſaid, ſhall be held and reputed freemen of the province, and counties aforeſaid, in as ample and full manner as any perſon reſiding therein. *And it is hereby further enacted by the authority aforeſaid*, That when at any time, any perſon that is a foreigner, ſhall make his requeſt to the Proprietary and Governor of this province and territories thereof, for the aforeſaid freedom, the ſaid perſon ſhall be admitted on the conditions herein expreſſed, paying at his admiſſion Twenty Shillings ſterling, and no more, any thing in this law, or any other law, act or thing in this province, to the contrary in anywiſe notwithſtanding.

All foreigners promiſing allegiance, &c. naturalized.

GIVEN at Cheſter, alias *Upland, the ſeventh day of the tenth month, called December, One Thouſand Six Hundred and Eighty-two, under the hand and broad ſeal of William Penn, Proprietary and Governor of this province, and territories thereunto belonging, being the ſecond year of his government, by the King's authority.*

W. PENN.

§ 45.

§ 45. *What wills ſhall convey lands as well as chattels.* 34 Charles II. A. D. 1682.

AND *be it enacted*, &c. That all wills in writing atteſted by two ſufficient witneſſes, ſhall be of the ſame force to lands, as to other conveyances, being legally proved, within forty days, either within or without the province.

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§ 51. *How lands and goods ſhall pay debts.* 34 Charles II. A. D. 1682.

AND *be it enacted*, &c. That all lands and goods ſhall be liable to pay debts, except where there ſhall be legal iſſue, and then all the goods, and one half of the land only, in caſe the land was bought before the debts were contracted.

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§ 62. *The act of ſettlement.* 34 Charles II.

WHERAS William Penn, Proprietary and Governor of the province of Pennſylvania, and territories thereunto belonging, hath, out of his great kindneſs and goodneſs to the inhabitants thereof, been favourably pleaſed to give and grant unto them a charter of liberties and privileges, dated the twenty-fifth day of the ſecond month, One Thouſand Six Hundred and Eighty-two; by which charter it is ſaid that the government ſhall conſiſt of the Governor and freemen of the ſaid province, in the form of a Provincial Council, and General Aſſembly; and that the Provincial Council ſhall conſiſt of ſeventy-two Members, to be choſen by the freemen, and that the General Aſſembly may, the firſt year, conſiſt of the whole body of the freeholders, and ever after, of an elected number, not exceeding two hundred perſons, without the conſent of the Provincial Council, and General Aſſembly; and ſuch Aſſembly to ſit yearly, on the twentieth day of the third month, May, as in the firſt, ſecond, third, ſixth, fourteenth and ſixteenth articles of the charter, reference being thereunto had, doth more at large appear. *And* foraſmuch Made at Cheſter, tenth month, 1682.

as

34 Charles II. A. D. 1682.

as this charter was the firſt of thoſe probationary laws that were agreed to and made by and between the Proprietary and Governor, and the freeholders in England, purchaſers in this province; which ſaid laws, in the whole and every part thereof, were to be ſubmitted to the explanation and confirmation of the firſt Provincial Council and General Aſſembly, that was to be held in this province, as by the title and firſt law of the ſaid agreement doth plainly appear. *And whereas* the Proprietary and Governor hath according to that charter iſſued out writs to the reſpective Sheriffs of the ſix counties of this province, *(a)* to ſummon the freemen thereof to chooſe in each county twelve perſons of moſt note for their ſobriety, wiſdom and integrity to ſerve in Provincial Council; and alſo to inform the freemen that they might come for this time in their own perſons, to make up a General Aſſembly, according to charter; and that the ſaid reſpective Sheriffs, by their returns, and the freemen, by their petitions to the Proprietary and Governor, have plainly declared, that the fewneſs of the people, their inability in eſtate, and unſkilfulneſs in matters of government, will not permit them to ſerve in ſo large a Council and Aſſembly, as by the charter is expreſſed; and therefore do deſire, that the Members now choſen to be their deputies and repreſentatives, may ſerve both for Provincial Council and General Aſſembly, *That is to ſay*, Three out of each county for the Provincial Council, and the remaining nine for the General Aſſembly, according to act as fully and amply as if the ſaid Provincial Council and General Aſſembly had conſiſted of the ſaid numbers of Members mentioned in the charter of liberties: Upon conſideration of the premiſes, and that the Proprietary and Governor may teſtify his great willingneſs to comply with that which may be moſt eaſy and pleaſing to the people, he is willing that it be enacted, *And be it enacted*, by the Proprietary and Governor, by and with the unanimous advice and conſent of the freemen of this province, and territories

(a) Viz. Philadelphia, Cheſter and Bucks counties in Pennſylvania, and New-Caſtle, Kent and Suſſex counties on Delaware.

ritories thereunto belonging, in Provincial Council, and General Aſſembly met, that the numbers deſired by the inhabitants in their ſeveral petitions and expreſſed to be their deſires by the Sheriffs returns, to the Proprietary and Governor, to ſerve as the Provincial Council and General Aſſembly, be allowed and taken, to all intents and purpoſes, to be the Provincial Council and General Aſſembly of this province. 34 Charles II. A. D. 1682.

And that the quorums ſhall be proportionably ſettled, according to the method expreſſed in the fifth article; *That is to ſay*, Two thirds to make a quorom in extraordinary caſes, as is provided in the ſaid fifth article; which ſaid Provincial Council and General Aſſembly ſo already choſen, are and ſhall be held and reputed the legal Provincial Council and General Aſſembly of this province, and territories thereof, for this preſent year; and that from and after the expiration of this preſent year, the Provincial Council ſhall conſiſt of three perſons out of each county as aforeſaid, and the Aſſembly ſhall conſiſt of ſix perſons out of each county; which ſaid Provincial Council and General Aſſembly may be hereafter enlarged, as the Governor, Provincial Council and Aſſembly ſhall ſee cauſe, ſo as the ſaid number do not at any time exceed the limitations expreſſed in the third and ſixteenth articles of the charter, any thing in this act, or any other act, charter or law to the contrary in any wiſe notwithſtanding. *And* becauſe the freemen of this province, and territories thereof, are deeply ſenſible of the good and kind intentions of the Proprietary and Governor, in this charter, and of the ſingular benefit that redounds to them thereby, and are deſirous that it may in all things beſt anſwer his deſign for the public good, the freemen of the ſaid province and territories thereof in Provincial Council and General Aſſembly met, having unanimouſly requeſted ſome variations, explanations and additions, of, in and to the ſaid charter, he the Proprietary and Governor hath therefore yielded, that it be enacted, *And it is hereby enacted*, That the time for the meeting of the freemen of this province, and territories thereof, to chooſe their deputies, to repreſent and ſerve them in Provincial Council and General Aſſembly,

Quorum ſettled

Provincial Council regulated.

Times of meeting appointed.

34 Charles II. A. D. 1682.

bly, ſhall be yearly hereafter on the tenth day of the firſt month March; which Members ſo choſen for the Provincial Council, ſhall make their appearance, and give their attendance in Provincial Council within twenty days after their elections; and the ſaid Members elected to ſerve in General Aſſembly, ſhall yearly meet and aſſemble on the tenth day of the ſaid third month, to the end and purpoſes declared in the charter, at and in ſuch place as is limited in the ſaid charter, unleſs the Governor and Provincial Council ſhall at any time ſee cauſe to the contrary. *And whereas* it is expreſſed in the ſaid charter, that the Governor and Provincial Council ſhall prepare and propoſe to the General Aſſembly, all bills which they ſhall think fit to paſs into laws within the ſaid province.

Governor and Council to prepare bills;

Be it enacted, by the authority aforeſaid, That the Governor and Provincial Council ſhall have the power of preparing and propoſing to the General Aſſembly, all bills which they ſhall jointly aſſent to, and think fit to have paſſed into laws in the ſaid province, and territories thereof, that are not inconſiſtent with, but according to the powers granted by the King's letters patents to the Proprietary and Governor aforeſaid; which bills ſhall be publiſhed in the moſt noted towns or places in the ſaid province, and territories thereof, twenty days before the meeting of the General Aſſembly aforeſaid. *And* for the better deciſion and determination of all matters and queſtions in Provincial Council and General Aſſembly, *It is hereby enacted*, That all queſtions upon elections of Repreſentatives, and debates in Provincial Council and General Aſſembly, in perſonal matters, ſhall be decided by the ballot, and all queſtions about preparing and enacting of laws, ſhall be determined by the vote. *And* that ſo united an intereſt may have an united term or ſtile to be expreſſed by, *It is hereby declared and enacted*, That the General Aſſembly ſhall be henceforth termed or called, *The Aſſembly*; and the meeting of the Governor, Provincial Council and Aſſembly, and their acts and proceedings, ſhall be ſtiled and called, *The Meetings, Seſſions, Acts or Proceedings of the General Aſſembly of the province of Pennſylvania, and the territories thereunto belonging*. And that the freemen of this province,

which ſhall be publiſhed, &c.

Perſonal matters to be decided by ballot, &c.

Name or ſtile of the Aſſembly, &c.

province, and territories thereof, may not on their parts ſeem unmindful or ungrateful to their Proprietary and Governor, for the teſtimony he hath been pleaſed to give of his great good will towards them and theirs, nor be wanting of that duty they owe to him and themſelves, they have prayed leave hereby to declare their moſt hearty acceptance of the ſaid charter, and their humble acknowledgments for the ſame, ſolemnly promiſing that they will inviolably obſerve and keep the ſame, (except as is therein excepted;) and they will neither directly nor indirectly contrive, propoſe, enact, or do, any thing or things whatſoever, by virtue of the power, thereby granted unto them, that ſhall or may redound to the prejudice or diſadvantage of the Proprietary and Governor, his heirs and ſucceſſors, in their juſt rights, properties and privileges, granted to him and them, by the King's letters patents, and deeds of releaſe and feofment, made to him by James, Duke of York and Albany, &c. and whom they deſire may be hereby recognized and acknowledged the true and rightful Proprietaries and Governors of this province of Pennſylvania, and territories thereunto annexed, according to the King's letters patents, and deeds of releaſe and feoffment from James, Duke of York and Albany, &c. unto the ſaid Proprietary and Governor, his heirs and ſucceſſors, any thing in this act, or any other act, grant, charter or law, to the contrary of theſe things herein and hereby explained, altered, limited, promiſed, declared and enacted, in anywiſe notwithſtanding.

34 Charles II. A. D. 1682.

Charter accepted.

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§ 78. *Forms of grants of eſtates of inheritance for life, lives or years.*

35 Charles II. A. D. 1683.

BE *it enacted*, &c. That for avoiding long and tedious conveyances and the many contentions which may ariſe about the variety of eſtates, all grants of eſtates ſhall be either of the inheritance, or for life or lives, or for years, any number not exceeding fifty years, which grants ſhall be thus contracted in theſe words, A. B. *the* &c. *day of* &c. *in the year according to the Engliſh account* 16, &c.

35 Charles II. A. D. 1683. &c. *from him and his heirs and assigns, grants his* (describe the bounds) *with all its appurtenances, lying in the county of containing acres or thereabouts to* C. D. *and his heirs* [if in fee] *or to* E. F. *for his life* (if for lives) *or to* G. H. *for one hundred years, if* I. K. L. M. N. O. *shall so long live, or to* P. Q. *for fifty years, for the consideration of Pounds in money paid, and of the yearly rent to be paid to* A. B. *and his heirs and assigns, upon the* &c. *day of* &c. In witness whereof he sets his hand and seal. Sealed and delivered in the presence of *R. S. T.* acknowledged in open court, and certified under the Clerks hand and court seal, the *&c.* day of *&c.* 16. *&c.* and registered the *&c.* day of *&c.* 16. *&c.*

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35 Charles II. A. D. 1683. § 79. *Form of possession in transferring of titles,* &c. &c.

BE *it enacted,* &c. That all deeds of sale, mortgages, settlements, conveyances, except leases for a year, shall be declared and acknowledged in open court; and the form of possession in transferring of titles shall be by the party, or his Attorney, delivering the said deed of gift in open court into the hands of him or his Attorney to whom it is made, and that to stand good to all intents and purposes.

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35 Charles II. A. D. 1683. § 109. *How the estate of any person shall be disposed of at his death.*

BE *it enacted,* &c. That whatsoever estate any person hath, in this province or territories thereof at the time of his death, unless it appear that an equal provision be made elsewhere, shall be thus disposed of; *That is to say,* One third to the wife of the party deceased, one third to the children equally, and the other third as he pleaseth, and in case his wife be deceased before him, two thirds shall go to the children equally, and the other third to be disposed of as he shall think fit, his debts being first paid.

§ 110.

§ 110. *How the eſtate of an inteſtate ſhall be diſpoſed of.* 35 Charles II. A. D. 1683.

BE *it enacted*, &c. That the eſtate of an inteſtate ſhall go to his wife, his child or children, and if he leave no wife, child or children, it ſhall go to his brothers and ſiſters, if any be, or to the children of ſuch brothers or ſiſters: And in caſe no ſuch be, one half ſhall go to the parents and the other half to the next of kin: And for want of parents one half ſhall go to the Governor, and for want of kin, the other half to the public. *Providing always*, That the time of claiming exceed not three years after the death of ſuch inteſtate.—Vid. § 172.

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§ 172. *How the eſtate of an inteſtate ſhall be diſpoſed of.* 35 Charles II. A. D. 1683.

THAT the eſtate of an inteſtate, ſhall be thus diſpoſed of, *That is to ſay*, One third of his perſonal eſtate, ſhall go to his wife, and further one-third of his lands and tenements to his wife during her natural life, the remainder, together with the other two thirds of his eſtate ſhall go to his children, his eldeſt ſon having a double part or ſhare; And in caſe the inteſtate leaves no child, then half the perſonal eſtate to the widow and the moiety of the real eſtate during her natural life, the remainder thereof to the next of her huſbands kin. And if he leaveth no wife, child, or children, it ſhall go to his brothers and ſiſters, if any be, or to the children of ſuch brothers and ſiſters; and in caſe no ſuch be, one half ſhall go to the parents, and one half ſhall go to the Governor. And for want of kin, the other half to the public ſtock of the county. And the eſtate of an inteſtate widow, ſhall go to her child or children, to be divided and ſhared as before; and if ſhe leave no child or children, the eſtate to be diſpoſed of as aforeſaid if any be. And the eſtate of an inteſtate ſingle man or woman, ſhall go to his or her brother and ſiſter if any be, and for want of ſuch, as before limited. *Provided*, That his or her debts be firſt paid;

35 Charles II. A. D. 1683. and that the time of claiming, be within three years after the deceaſe of the inteſtate party.

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4 James II. A. D. 1688.

§ 188. *In what caſes the Orphans Court with conſent of the Governor and Council may ſell inteſtates lands.*

BE *it enacted*, &c. That any perſon, who died or ſhall die inteſtate, being owner of lands within this province or territories, and hath or ſhall leave legal iſſue, it ſhall be lawful for the Court of Orphans with the approbation of the Governor and Council to impower the widow or adminiſtrator, in caſe of conſiderable debts, charge of child or children, to make ſale of ſuch parts or tracts of the ſaid land as the council and court ſhall judge met direct towards the defraying of ſuch juſt debts, the education of ſuch child or children, ſupport of the widow and the better improving the remainder of the eſtate to their advantage, and that this law continue and be in force for one whole year and no longer.

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4 James II. A. D. 1688.

§ 189. *Lands lyable to pay debts.*

FORASMUCH, as by a law made at Upland, it was enacted, that all lands were made lyable to pay debts with ſuch reſtrictions and limitations as are therein expreſt, for the fuller and more ſatisfactory explanation and alteration of the ſame, *It is hereby enacted*, That all lands whatſoever, and houſes ſhall be liable to ſale upon judgment and execution obtained againſt the defendant, his heirs, executors or adminiſtrators, with this due proviſo, that the meſſuage and plantation with its appurtenances upon which the defendant is chiefly ſeated, may not be expoſed to ſale, till the expiration of one year after the judgment obtained, to the intent that the owner or any on his behalf, may endeavour the redemption of the ſame, and before ſuch ſale ſhall be made, the appraiſement thereof ſhall be by twelve honeſt and diſcreet men of the neighbourhood; and that after ſuch ſale and appraiſement

praiſement as aforeſaid, the lands ſhall be and remain as a free and clear eſtate, to the purchaſer or creditor, his heirs and aſſigns for ever, as ever it was to the debtor. *Provided always*, That lawful intereſt be allowed to the creditor from the time of the ſaid judgment obtained, until the ſaid time of ſale or ſatisfaction. *Provided alſo*, That the chief plantation or meſſuage, ſhall be the laſt, to be executed. And that this law continue for one whole year and till the riſing of the next General Aſſembly, and until twenty days after and no longer. 4 James II. A. D. 1688.

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§ 190. *Recording of writings.* 4 James II. A. D. 1688.

FORASMUCH as the forty-fourth chapter of laws enjoins the recording of all charters, gifts, grants, conveyances of land, bills, bonds and ſuch writings therein mentioned, and within the time therein expreſſed, otherwiſe to be void in law. *It is hereby enacted*, &c. That for the prevention of great inconveniences, and for the ſatisfaction of ſeveral owners of lands, that all ſuch charters, gifts, grants and conveyances of lands, bills, bonds and ſuch writings, though they are neither recorded nor recorded; according to law yet they are hereby indemnified and are declared as good and authentic as if they had been duly enrolled and regiſtered. *Provided always*, That all gifts, grants and conveyances of lands or ſufficient memorandums of the ſame, in this government, but made out of the ſame, may be brought to be recorded in the Enrolment Office within twelve months; and all ſuch inſtruments made of lands within this province or territories, may be brought to be regiſtered within ſix months, otherwiſe to be void, as in the ſaid law is declared: And further, it is the full intent and true meaning of this law that no bills, bonds or ſpecialties, ſhall be required to be recorded under the penalty mentioned, but that all ſuch bills, bonds and ſpecialties, which ſhall be enrolled or recorded in the ſaid office, the record of the ſame ſhall in all Courts of Judicature be allowed and adjudged as valid as the original. And that this law continue for

4 James II. A. D. 1688. for one whole year and till the riſing of the next General Aſſembly and until twenty days after and no longer.

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5 Wm. & Mary. A. D. 1693. § 14. *The law about teſtates and inteſtates eſtates.*

AND *be it further enacted by the authority aforeſaid*, That all real eſtates and lands, tenements and hereditaments, and all perſonal eſtates which any perſon hath in this province and territories at the time of his deceaſe ſhall be liable, either by conveyance or bill of ſale, duly executed by the lawful executor or adminiſtrator of ſuch deceaſed, and approved and acknowledged in open court, according to law, or by judgment and order of the reſpective Courts of Record, upon due procedure therein had, to be ſeized and ſold for payment of the decedent's juſt debts, ſo far as the ſame eſtate ſhall extend, in due order of law; *That is to ſay*, Firſt funeral expences, then debts and duties due to the Governor, then judgments, then debts by recognizance, then debts by obligation, then bills, then rents, then ſervants and workmens wages, then merchants books, lately contracted, and promiſes by word, arrears of accounts, and ſuch like, which ſaid ſale and ſeizures are hereby declared to be binding and concluſive againſt ſuch deceaſeds and their heirs, and all claiming under them.

And after all debts are paid as aforeſaid, then the ſurpluſage or reſidue, if any be, of all the teſtator's ſaid perſonal eſtate, ſhall be by the executors divided and proportionably diſtributed according to their laſt wills.

And that the ſurpluſage or reſidue of an inteſtates perſonal eſtate, (all debts being paid as aforeſaid) ſhall be thus diſpoſed of and diſtributed, *to wit*, one third part thereof to the wife of the inteſtate, the reſidue amongſt his children and ſuch as legally repreſent them, (if any of them be dead) the eldeſt ſon having a double part or ſhare: And if there be no children nor legal repreſentatives of them, one moiety ſhall be allotted to the wife, the reſidue equally to the next of kindred to the inteſtate in equal degree, and thoſe who

who repreſent them, and if the inteſtate leaveth no wife, child or children, it ſhall go to his brothers and ſiſters, if any be, or to the children of ſuch brothers and ſiſters: And in caſe no ſuch be, it ſhall go to the parents; and for want of kindred, the one half to the Governor for the time being, and the other half to the public ſtock of the county, where ſuch eſtate lieth. 5 Wm. & Mary, A. D. 1693.

And the perſonal eſtate of an inteſtate widow, ſhall go to her child or children, the ſame to be diſpoſed of as aforeſaid.

And the perſonal eſtate of a ſingle man or woman, dying inteſtate, ſhall go to his and their brothers and ſiſters, if any be, and for want of ſuch, then as before limited.

Provided always, That where ſuch teſtators or inteſtators ſaid perſonal eſtates are ſufficient to pay all debts and damages, owing by them at the time of their deceaſe, with all charges incident thereunto, that then the reſpective real eſtate aforeſaid, ſhall be diſpoſed of and diſtributed in manner following, *That is to ſay*, All teſtators real eſtate to be inveſted and remain, as their laſt wills and teſtaments deviſe the ſame, and one third part of all inteſtates lands and tenements to the wife for her life, the reſidue and remainder thereof to be allotted and diſtributed in the ſame manner, as the ſurpluſage of the inteſtates perſonal eſtate, as above limited and directed.

All which diſtributions of the remainders and ſurpluſages as well of the teſtates, as inteſtates eſtates, are to be made by the Regiſter General, for the time being, within twelve months after the decedents death. And every one to whom any ſhares ſhall be allotted, ſhall give bond with ſecurities to the ſaid Regiſter General, that if debts afterwards be made to appear, he or ſhe, ſhall refund his or her rateable part thereof, and of the executors or adminiſtrators charges accruing thereby.

And that all ſuch of the inteſtate's relations and perſons concerned, who ſhall not lay legal claims to the ſaid eſtates within three years next after the deceaſe of the inteſtate party, ſhall be debarred for ever.

And

5 Wm. & Mary. A. D. 1693.

And be it further enacted by the authority aforeſaid, That all executors and guardians to perſons under age, ſhall give ſufficient bond to the Court of Orphans in the precincts where they live, faithfully to diſcharge their truſt; and that the ſaid obligations ſhall ſtand in full force and virtue, till they have paſſed their accounts in court, and are legally diſcharged. And if any man ſhall refuſe this honeſt care and charge in the government, unleſs he have five children to take care of, or is already executor to one will, or hath perſons nearer related to him, who in all likelihood, will impoſe that charge upon him, he ſhall be fined at the diſcretion of the aforeſaid court, who ſhall appoint one to adminiſter in the room of ſuch perſon, to the ends expreſſed in the will of the teſtator.

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5 Wm. & Mary. A. D. 1693.

§ 23. *The law about the recording of deeds.*

TO prevent any damage or inconveniency that may ariſe for not recording of deeds, gifts, grants and charters, enjoined by the late laws of this government, *Be it enacted by the authority aforeſaid*, That ſuch writings, though they were never recorded nor enrolled, according to law, yet they are hereby indemnified, and are declared as good and authentic as if they had been duly entered and enrolled; and it is the true meaning of this act, that no deeds or other writings, ſhall be required to be recorded, but that ſuch deeds and writings, as ſhall be enrolled or regiſtered in the Rolls Office; and the exemplification of the records of the ſame, in all Courts of Judicature, ſhall be allowed and judged as valid as the original.

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6 Wm. & Mary. A. D. 1694.

§ 5. *The law about taking land in execution for debts*, &c.

FORASMUCH as by a law made at Upland, it was enacted that all lands were made liable to pay debts with ſuch reſtrictions and limitations, as

are

are therein expreſſed; for the fuller and more ſatiſfactory explanation and alteration of the ſame, *It is hereby enacted*, That all lands whatſoever, and houſes, ſhall be liable to ſale upon judgment and execution obtained againſt the defendant, his heirs, executors or adminiſtrators, with this due proviſo, that the meſſuage and plantation, with its appurtenances, upon which the defendant is chiefly ſeated, may not be expoſed to ſale till the expiration of one year after the judgment obtained, to the intent that the owner, or any on his behalf, may endeavour the redemption of the ſame. And before ſuch ſale ſhall be made, the appraiſement thereof, ſhall be by twelve honeſt and diſcreet men of the neighbourhood; and that after ſuch ſale and appraiſement as aforeſaid, the land ſhall be and remain as a free and clear eſtate to the purchaſer or creditor, his heirs and aſſigns for ever, as ever it was to the debtor. *Provided always*, That lawful intereſt be allowed to the creditor from the time of the ſaid judgment obtained, until the ſaid time of ſale or ſatisfaction. *Provided alſo*, That the chief plantation or meſſuage, ſhall be the laſt to be executed. 6 Wm. & Mary. A. D. 1694.

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§ 6. *The law about ſale of inteſtates lands by the widow or adminiſtrator.* 6 Wm. & Mary. A. D. 1694.

BE *it enacted by the authority aforeſaid*, That any perſon, who died or that ſhall die inteſtate, being owner of lands within this province or territories thereunto belonging, and hath left or ſhall leave legal iſſue, it ſhall be lawful for the widow or adminiſtrator, in caſe of conſiderable debts, charge of child or children, to make ſale of ſuch parts or tracts of the ſaid lands, as the council or county court ſhall think meet, towards the defraying of ſuch juſt debts, the education of ſuch child or children, ſupport of the widow and the better improving the remainder of the eſtate to their advantage.

9 William III. A. D. 1697.

§ 4 *The law about teſtates and inteſtates eſtates.*

AND *be it further enacted by the authority aforeſaid*, That all real eſtates and lands, tenements, and hereditaments, and all perſonal eſtates, which any perſon hath in this province and territories, at the time of his deceaſe, ſhall be liable, either by conveyance or bill of ſale, duly executed by the lawful executor or adminiſtrator, of ſuch deceaſed, and approved and acknowledged in open court, according to law, or by judgment and order of the reſpective Courts of Record, upon due procedure therein had, to be ſeized and ſold for payment of the decedents juſt debts, ſo far as the ſame eſtate ſhall extend in due order of law; *That is to ſay*, Firſt funeral expences, then debts and duties due to the Governor, then judgments, then debts due by recognizance, then debts due by obligation, then bills, then rents, then ſervants and workmen's wages, then merchants books, lately contracted, and promiſes by word, arrears of accounts, and ſuch like: Which ſaid ſales and ſeizures are hereby declared to be binding and concluſive againſt ſuch deceaſeds, and their heirs and all claiming under them. And after all debts are paid, as aforeſaid, then the ſurpluſage, or reſidue, if any be, of all the teſtators ſaid perſonal eſtate, ſhall be by the executors divided and proportionably diſtributed according to their laſt wills. *Always provided*, That his widow have not leſs than one third part of the ſaid perſonal eſtate, except where due and equivalent proviſion hath been made before by the teſtator. And that the ſurpluſage or reſidue of an inteſtate's perſonal eſtate, (all debts being paid as aforeſaid) ſhall be thus diſpoſed of and diſtributed, *to wit*, one third part thereof to the wife of the inteſtate, the reſidue amongſt his children and ſuch as legally repreſent them, if any of them be dead, the eldeſt ſon having a double part or ſhare: And if there be no children nor legal repreſentatives of them, one moiety ſhall be allotted to the wife, the reſidue equally to the next of kindred to the inteſtate, in equal degree and thoſe who repreſent them. And if the inteſtate leaveth no wife, child nor children, it ſhall go to his brothers and ſiſters,

if

if any be, or to the children of ſuch brothers and ſiſters, and in caſe no ſuch be, it ſhall go to the parents: And for want of kindred, the one half to the Governor for the time being, and the other half to the public ſtock of the county, where ſuch eſtate lieth. And the perſonal eſtate of an inteſtate widow, ſhall go to her child or children, the ſame to be diſpoſed of as aforeſaid. And the perſonal eſtate of a ſingle man or woman dying inteſtate, ſhall go to his and their brothers and ſiſters, if any be, and for want of ſuch, then as before limited. *Provided always*, That where ſuch teſtators or inteſtators ſaid perſonal eſtates are ſufficient to pay all debts and damages, owing by them, at the time of their deceaſe, with all charges incident thereunto, that then their reſpective real eſtates aforeſaid, ſhall be diſpoſed of and diſtributed in manner following, *That is to ſay*, All teſtators real eſtates, to be inveſted and remain as their laſt wills and teſtaments deviſe the ſame. *Provided always*, That no leſs than one third part of the ſaid real eſtate, be allowed and inveſted in the widow, during her natural life, except, where due and equivalent proviſion hath been made before by the teſtator. And one third part of all inteſtates lands and tenements, to the wife for her life, the reſidue and remainder thereof, to be allotted and diſtributed in the ſame manner, as the ſurpluſage of the inteſtates perſonal eſtate as above limited and directed. All which diſtributions of the remainders and ſurpluſages as well of the teſtators, as inteſtators eſtates, are to be made by the Regiſter General, for the time being, within twelve months after the decedents death, and every one to whom any ſhare ſhall be allotted, ſhall give bond with ſecurities, to the ſaid Regiſter General, that if debts afterwards be made to appear, he or ſhe ſhall refund his or her rateable part thereof, and of the executors or adminiſtrators charges accruing thereby. And that all ſuch of the inteſtates relations and perſons concerned, who ſhall not lay legal claims to the ſaid eſtates within ſeven years after the deceaſe, of the inteſtate parties, ſhall be debarred for ever.

9 William III. A. D. 1697.

And be it further enacted by the authority aforeſaid,

9 William III. A. D. 1697. That all executors and guardians to perſons under age, ſhall give ſufficient bond to the Court of Orphans, in the precincts, where they live, faithfully to diſcharge their truſt, and that the ſaid obligations ſhall ſtand in full force and virtue, till they have paſſed their accounts in court and are legally diſcharged.

Chap. 6. a. 12 William III. A. D. 1700.

§ 31. *An* ACT *for aſcertaining the deſcent of lands, and better diſpoſition of the eſtates of perſons inteſtate.*

FOR the prevention of diſputes and conteſts at law, or otherwiſe, concerning eſtates, real and perſonal, of perſons dying inteſtate, and for the more equal payment of their debts, *Be it enacted, by the Proprietary and Governor, by and with the advice and conſent of the freemen of this province, and counties annexed, in General Aſſembly met, and by the authority of the ſame,* That all lands, tenements and hereditaments, and all perſonal eſtates whatſoever, which any perſon hath or is ſeized or poſſeſſed of, in his or her own right at the time of his or her deceaſe, within this province and territories, ſhall be liable to be ſeized and ſold by the lawful executor or adminiſtrator of the deceaſed, by any lawful deed or conveyance, duly executed and approved and acknowledged in open court, according to law, or by judgment or order of the reſpective Courts of Record, upon due procedure therein reſpectively had for the payment of the decedents juſt debts, ſo far as the ſaid eſtates ſhall extend in due order of law, *That is to ſay,* Firſt, funeral expences; ſecondly, debts and duties due to the King, and Proprietary and Governor; thirdly, judgments; fourthly, debts due by recognizance; fifthly, debts due by obligation; ſixthly, bills; ſeventhly, rents; eighthly, ſervants and workmen's wages; ninthly, merchants and traders books, and promiſes by word; arrears of accounts and ſuch like; which ſaid ſeizures, ſales and payment, ſhall be binding and concluſive againſt ſuch decedents, their heirs, and all perſons whatſoever, claiming by, from, or under them, or any of them. And after all debts and dues paid

and ſatisfied as aforeſaid, the ſurpluſage or reſidue (if any be) of all the teſtators ſaid perſonal eſtate ſhall be by the executors divided and proportionably diſtributed according to the ſaid teſtators laſt wills. *Provided always*, That the widow ſhall not have leſs than one third part of the ſaid clear perſonal eſtate, except where equivalent proviſion hath before been made for her by the teſtator, and that the reſidue of the perſonal eſtates of inteſtates (all their debts being firſt paid as aforeſaid) ſhall be diſpoſed of, and diſtributed in manner following, *That is to ſay*, One third part thereof, to the relict or widow of the inteſtate aforeſaid, and all the reſidue by equal portions to and amongſt the children of the inteſtate and ſuch perſons as legally repreſent ſuch children in caſe any of the children be then dead, other than ſuch child or children, who ſhall have any eſtate, by the ſettlement of the inteſtate, or ſhall be advanced by the inteſtate in his or her lifetime, by portion or portions equal to the ſhare, which ſhall by ſuch diſtribution be allotted to the other children, to whom ſuch diſtribution is to be made. *And* in caſe any child, who ſhall have any eſtate, by ſettlement, from the ſaid inteſtate, or ſhall be advanced by the ſaid inteſtate in his or her lifetime, by portion not equal to the ſhare, which will be due to the other children by ſuch diſtribution as aforeſaid, then ſo much of the ſurpluſage of the ſaid inteſtates eſtate, ſhall be diſtributed to ſuch child or children, as ſhall have any land by ſettlement, from the inteſtate or were advanced, in the lifetime of the inteſtate, as ſhall make the eſtates, of all the ſaid children to be equal, or as near as can be eſtimated. *Provided*, That the firſt born, if a ſon, of the ſaid inteſtate, ſhall have a double portion or ſhare of ſuch clear reſidue of the inteſtates eſtate as aforeſaid, the widow's third, being firſt therefrom divided. *And* in caſe, there be no children nor legal repreſentatives of them, then one moiety of ſuch eſtate, ſhall be allotted to the widow of the inteſtate, and the reſidue of the eſtate diſtributed equally to every of the next of kindred of the inteſtate, who are in equal degree, and thoſe, who legally repreſent them. *Provided*, That there ſhall be no repreſentations admitted among

12 William III. A. D. 1700.

12 William III. A. D. 1700.

among collaterals after brothers and ſiſters children; and in caſe the inteſtate ſhall have no widow, then all the ſaid eſtate, ſhall be diſtributed equally to and among the children (the firſt born, if a ſon, having a double ſhare as aforeſaid.) And in caſe there be no child, then to the next of kindred of the inteſtate in equal degree and their legal repreſentatives as aforeſaid, and in no other manner whatſoever.

And be it further enacted by the authority aforeſaid, That in caſe ſuch inteſtate, ſhall leave no known kindred, then all his lands, tenements and hereditaments, ſhall deſcend and go to the immediate landlord, of whom ſuch lands are held, his heirs and aſſigns, and if held immediately of the Proprietary, then to the Proprietary, his heirs and aſſigns, and all the goods, chattels and perſonal eſtate whatſoever, of ſuch perſon dying inteſtate, and without kindred as aforeſaid, ſhall go to the Proprietary and Governor, his heirs and aſſigns: *Provided always, and be it further enacted by the authority aforeſaid*, That where ſuch teſtators or inteſtates perſonal eſtates are ſufficient to pay all debts and damages, owing by them reſpectively, at the time of his, her or their deaths, with all charges incident thereunto, then the real eſtates, lands, tenements and hereditaments, of ſuch teſtators and inteſtates, ſhall be diſpoſed of and diſtributed in manner following; all teſtators real eſtate, ſhall be diſpoſed, and remain according to the laſt will and teſtament of the teſtator, *Provided always*, That no leſs than one third part of any real eſtate be allotted to the widow of ſuch teſtator, during her natural life, except where due and equivalent proviſion hath been made, before by the teſtator. And one third part of all lands, tenements and hereditaments of or belonging to any perſon dying inteſtate, ſhall go and be allotted to his widow for her life, and the reſidue and remainder thereof, ſhall be diſtributed and allotted in the ſame manner as the ſurpluſage of the inteſtates perſonal eſtates above limited and directed; all which diſtributions of the remainders and ſurpluſages as well of teſtators, as inteſtates eſtates, ſhall be made by the reſpective Regiſters of the counties, where ſuch teſtators or inteſtates eſtates ſhall lye for the time being, within twelve

months

months next after the decedents death, and every one to whom any ſhare in the diſtribution, ſhall be allotted, ſhall give bond with ſufficient ſureties to the ſaid Regiſter, that if any debt or debts, truly owing by the inteſtate, ſhall afterwards be ſued for and recovered or otherwiſe duly made to appear that then and in every ſuch caſe he or ſhe, ſhall refund and pay back to the adminiſtrator, his or her rateable part of ſuch debt or debts, and of the coſts of ſuit, and charges to the adminiſtrator by reaſon of ſuch debt accruing out of the part or ſhare, to him or her aſlotted as aforeſaid, thereby to enable the ſaid adminiſtrator to pay and ſatisfy the ſaid debt or debts, diſcovered after the diſtribution is made as aforeſaid; and that all ſuch of the inteſtates relations and perſons concerned, who ſhall not lay legal claim to their reſpective ſhares of ſuch eſtates within ſeven years after the deceaſe of the inteſtates, ſhall be debarred from the ſame for ever.

12 William III. A. D. 1700.

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§ 43. *An* ACT *confirming deviſes of lands, and validity of nuncupative wills.*

Chap. 7. a. 12 William III. A. D. 1700.

TO the end that lands and hereditaments may be enjoyed by the deviſee and his heirs as amply as lands granted by deed by the grantee; *Be it enacted by the Proprietary and Governor, by and with the advice and conſent of the freemen of this province and territories, in General Aſſembly met, and by the authority of the ſame,* That all wills in writing, wherein or whereby any lands, tenements, or hereditaments within this province or territories, are or ſhall be deviſed, ſhall be as good and authentic in law (according to the tenor thereof) as any other conveyance for granting of ſuch lands and premiſes, whether the ſaid wills be made within or out of this province or territories, provided the ſame be legally proved within this province or territories, within ſix months after the death of the teſtator, or within eighteen months, if the deviſee live out of this government.

Wills to be authentic in conveying lands, &c.

And, for the preventing of all diſadvantages and hardſhips that may accrue to any perſon for want of due

Nuncupative wills how to be proved, &c.

12 William III. A. D. 1700.

due proof of nuncupative or verbal wills, or by any pretending the ſame where no ſuch will really is; *Be it enacted by the authority aforeſaid*, That all nuncupative wills made within this province or territories, ſhall be of full force for all goods and chattels thereby deviſed or bequeathed: *Provided always*, That the ſaid nuncupative wills ſhall be reduced into writing within two days after the deceaſe of the ſaid teſtator, and ſubſcribed by two ſufficient witneſſes, who were preſent and heard the teſtator make the will, to be atteſted by any Juſtice of the Peace of the truth of the ſaid nuncupative or verbal will, within ten days after the death of the ſaid teſtator; which ſaid will being proved in the Regiſter's Office in this province and territories, within ſix months next after the teſtator's death, ſhall be good and valid in law, according to the purport thereof, for all goods and chattels therein bequeathed, as if the ſame had been originally made in writing by the teſtator, and duly executed as aforeſaid.

And be it further enacted by the authority aforeſaid, That no will or teſtament, or nuncupative will of any perſon *non compos mentis*, or not in his or her right mind or underſtanding at the time of the making thereof, ſhall be good and valid in law.

Chap. 8. a. 12 William III. A. D. 1700.

§ 46. *An* ACT *for impowering widows and adminiſtrators, to ſell ſo much of the lands of inteſtates as may be ſufficient to clear their debts*, &c.

BE *it enacted by the Proprietary and Governor, by and with the advice and conſent of the freemen of this province and territories, in General Aſſembly met, and by the authority of the ſame*, That if any perſon that dies inteſtate, being owner of lands within this province or territories thereof, and leave legal iſſue behind him, but no ſufficient perſonal eſtate for their maintenance or paying of debts, in ſuch caſe, it ſhall be lawful for the widow or adminiſtrator to make ſale of ſuch part or parcel of the ſaid lands, as the Orphans Court ſhall think fit, towards the defraying of the juſt debts of ſuch inteſtate,

inteſtate, the education of his children, and the improving the remainder of the eſtate (if any be) to their advantage. 12 William III. A. D. 1700.

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§ 88. *An* ACT *for the effectual eſtabliſhment and confirmation of the freeholders of this province and territories, their heirs and aſſigns, in their lands and tenements.* Chap. 10. 2. 12 William III. A. D. 1700.

WHEREAS at the firſt laying out and ſettling of lands in this province of Pennſylvania and territories thereunto belonging, many great neglects and errors have been committed, through the want of experience and care both in officers and the people, as well to the wrong of the Proprietary, as the inſecurity of the ſaid people, and the great inconveniency of both: For remedy whereof, and for the ſafety of the ſaid province and territories, in general, and that the inhabitants may be compleatly and abſolutely ſettled, and fully ſecured in their rights and titles to land, and all occaſions of difference and conteſt thereupon may forever hereafter be prevented and removed, *Be it enacted by the Proprietary and Governor, by and with the advice and conſent of the freemen of this province and territories, in General Aſſembly met, and by the authority of the ſame,* That all tracts and parcels of land taken up within this province and territories, and duly ſeated by virtue of letters patents or warrants, obtained from Governors or lawful Commiſſioners, under the crown of England, before the King's grant to the Proprietary and Governor for this province (except the ſame was had by fraud or deceit) ſhall be quietly enjoyed by the actual poſſeſſors, their heirs and aſſigns: And that all lands and tracts of land, duly taken up by virtue of warrants obtained purſuant to purchaſes made and had from the Proprietary and Governor, or in purſuance of any commiſſion or power granted by the Proprietary to any other perſon (except as before excepted, and except where the ſame does interfere with other perſons juſt rights and claims) ſhall be quietly and peaceably enjoyed by, and confirmed to the poſſeſſor (according to the ſaid warrants) his

11 William III. A. D. 1709.

his heirs and aſſigns for ever; and although no patent hath been granted, yet, if peaceable entry and poſſeſſion hath been obtained, by warrants, or otherwiſe, as aforeſaid, and thereupon quiet poſſeſſion hath been held during the ſpace of ſeven years, or more, ſuch poſſeſſion, or ſuch entry as aforeſaid ſhall give an unqueſtionable title to all ſuch lands, according to the quantity they were taken up for, and ſhall be deemed and held good; and be confirmed by the Proprietary to the ſeaters or poſſeſſors thereof, their heirs and aſſigns, for ever.

And be it further enacted by the authority aforeſaid, That all grants for lands from the Proprietary, ſhall be henceforth under the Great Seal of this province and territories; which grants ſhall give the reſpective grantees an abſolute title for all the lands therein to be granted or confirmed, be they more or leſs than laid out for, and ſhall never more thereafter be ſubject or liable to any further ſurvey. And that all grants and patents heretofore granted, whether under the broad or leſſer ſeal, either by the Proprietary himſelf or his Commiſſioners as aforeſaid, ſhall be firm and good, to all intents and purpoſes, for the quantity of land in ſuch grants expreſſed, for ever after the time herein limited, without any further diſpute.

And whereas ſeveral miſtakes and errors have happened through the negligence, ignorance or fraud of ſurveyors or chain carriers, and many ſurveys have thereby been made erroneous: For the rectifying whereof, *Be it enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Proprietary and Governor, and his heirs, by his and their lawful ſurveyors, at any time within the ſpace of two years after publication hereof, to re-ſurvey, or cauſe to be re-ſurveyed, any perſon's land within this province or territories; and if upon ſuch re-ſurvey, allowing four acres in the hundred, over or under, for the difference of ſurveys, there be more land found in the number of acres than the tract ſo ſurveyed was laid out for, allowing alſo ſix *per cent.* for roads and highways, all ſuch overplus lands ſhall be to the Proprietary, and the poſſeſſor thereof ſhall have the refuſal of it from the Proprietary, at reaſonable rates: And if the Proprietary

etary and the ſaid poſſeſſor do not agree, then, and in ſuch caſe, the Proprietary ſhall chooſe two men and the purchaſer or renter ſhall chooſe two more who ſhall either fix a price on the ſaid overplus land, to be paid by the poſſeſſor, or otherwiſe appoint where it ſhall be taken off for the Proprietary in one entire piece, and at an outſide, ſaving to the purchaſer or renter his improvements, and beſt conveniencies; any three of whom agreeing ſhall be concluſive; and the charges of re-ſurveying ſuch lands ſhall be bore by him to whom the overplus land ſhall fall, *That is to ſay*, By the purchaſer or renter of the main tract if he buy the overplus, or if not, by the Proprietary. 11 William III. A. D. 1700.

And be it further enacted by the authority aforeſaid, That if any purchaſer or tenant, having procured his land to be again ſurveyed by any of the lawful Surveyors, ſhall find the ſame to be deficient of the quantity it was before laid out for and ſhould contain (allowance for difference of ſurveys, roads and highways being firſt made, as above expreſſed) all ſuch deficiencies ſhall be made good by the Proprietary and Governor according as he receives for the overplus land as aforeſaid.

And that the people in the ſaid ſurveys may have the greater ſatisfaction, *Be it further enacted by the authority aforeſaid*, That no Surveyor ſhall enter upon any perſon's land to make a re-ſurvey of the ſame, without firſt giving notice to the owner or poſſeſſor thereof, or leaving notice at his houſe, if he dwell near the ſame, and if he do not know him, and the ſaid owner dwell not in the precinct or townſhip, that then ſuch Surveyor ſhall give notice thereof to the two next neighbours, under the penalty of Twenty Pounds, to be forfeited to ſuch owner. And in caſe any Surveyor ſhall hereafter wilfully or negligently ſurvey any lands to the prejudice of the poſſeſſor or owner, he ſhall make good double damages to the party grieved.

And be it further enacted by the authority aforeſaid, That the firſt hundred purchaſers of land in the province ſhall be preferred, and have liberty to take up their lands before any after purchaſers, ſo that they make application for the ſame within four months after publication hereof.

And be it further enacted, That where any lands have

12 William III. A. D. 1700.

been purchaſed or taken up in copartnerſhip, and either of the parties die before diviſion be made thereof, the ſurvivor ſhall claim his equal and juſt ſhare and proportion, and the heirs and aſſigns of the deceaſed partner ſhall hold and enjoy the part belonging to ſuch deceaſed as firmly as when all the parties were living, unleſs it ſhall appear that there has been ſome contract or agreement made to the contrary.

And whereas it may ſometimes happen, that where ſome have purchaſed a parcel of land (for inſtance, a thouſand acres) and the ſame has been ſurveyed and laid out; but upon a re-ſurvey of ſuch tract it is found to contain twelve hundred acres, of which the purchaſer, having been wholly ignorant, hath ſold either part of it or the whole to ſeveral perſons, or has given it to ſeveral children, under the notion of only a thouſand acres, upon re-ſurvey of which, by the Proprietary's order, the overplus may happen to fall within ſeveral ſmall plantations, or to conſiſt entirely of one of them, *Be it therefore enacted by the authority aforeſaid*, That in ſuch caſes the Proprietary's overplus ſhall not be taken off any one particular of the ſaid ſeveral plantations, but off the rough land remaining undiſpoſed of in the whole tract, if any ſuch be; and if there be no ſuch, then to be taken off every particular plantation proportionably: And the charges of running the diviſion lines ſhall be always borne by the reſpective owners of the ſeveral plantations. And where the overplus is taken in one entire piece off the whole, it ſhall and may be lawful for the firſt purchaſer to cauſe the ſeveral tracts by him ſold to any meaſne purchaſer or purchaſers to be re-ſurveyed by any lawful Surveyor; and the overplus found in ſuch tracts or meaſne purchaſers above what they were ſold or rented for, ſhall go to the perſon of whom they were bought, in like manner as the overplus lands in general go to the Proprietary and Governor.

And whereas our Proprietary and Governor did formerly, in a clauſe of our charter of privileges, give and grant to all and every one of the inhabitants of this province and territories full and quiet enjoyment of their reſpective lands to which they had any lawful or equitable claim, ſaving only ſuch rents and ſervices for

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the ſame as were or cuſtomarily ought to be reſerved to the Proprietary, his heirs and aſſigns; *(a)* which clauſe, upon delivering up our ſaid charter, was reſerved, and our ſaid Proprietary and Governor was pleaſed to reſerve to us; We therefore deſire that it may be enacted, *And be it enacted by the authority aforeſaid*, That the ſaid clauſe ſhall be in as full force, power and virtue, as if the ſurrender of the charter as aforeſaid had never been made. *Provided always*, That nothing in this act ſhall be conſtrued to confirm any lands to the prejudice of the right of infants, married women, lunatics or perſons beyond the ſeas; any thing herein to the contrary in any wiſe notwithſtanding. 12 William III, A. D. 1700.

And for the ſatisfaction and encouragement of aliens, coming into this province or counties annexed, *Be it further enacted by the authority aforeſaid*, That if any alien, who is or ſhall be a purchaſer, or who doth or ſhall inhabit in this province or territories thereof, ſhall deceaſe at any time before he can well be naturalized, his right and intereſt therein ſhall notwithſtanding deſcend to his wife and children, or other his relations, be he teſtate or inteſtate, according to the laws of this province and territories thereof in ſuch caſes provided, in as free and ample manner, to all intents and purpoſes, as if the ſaid alien had been naturalized.

And whereas divers perſons beyond ſeas are and have been owners of lands within this province and territories, and ſuch perſons have uſually appointed attornies to ſell and diſpoſe of the ſame; to the end therefore that the ſeveral perſons that have ſo purchaſed, their heirs and aſſigns, may forever hereafter be ſecured in their titles and covenants, *Be it enacted by the authority aforeſaid*, That all ſales of lands, tenements and hereditaments made by lawful attornies, eſpecially granted to ſell ſuch lands, are and ſhall be deemed and adjudged good and effectual in law to all intents, conſtructions and

(a) The charter is dated April 2d, 1683; and the place referred to in the above law is as followeth: And that all inhabitants of this province and territories thereof, whether purchaſers or others may have the laſt worldly pledge of my good and kind intentions to them and theirs: I do give, grant, and confirm to all and every one of them, full and quiet poſſeſſion of their reſpective lands, to which they have any lawful or equitable claim: Saving only ſuch rents and ſervices for the ſame, as are or cuſtomarily ought to be reſerved to me, my heirs or aſſigns.

12 William III. A. D. 1700.

and purpoſes whatſoever, as if the ſaid owners of ſuch lands had, by their own deeds, bargains and ſales, actually and really ſold, conveyed and executed the ſame; and all and ſingular the lands, tenements and hereditaments ſold and conveyed as aforeſaid ſhall be and remain to ſuch purchaſers reſpectively, their heirs and aſſigns forever, as they might or ought to have done to the owner or owners of ſuch lands and premiſes ſo employing his or their attorney or attornies as aforeſaid.

And be it it further enacted by the authority aforeſaid, That all lands, tenements and hereditaments, that hereafter ſhall be ſold by virtue of any letter of attorney, ſhall be good and valid reſpectively to the purchaſers, their heirs and aſſigns, forever, as aforeſaid; *Provided* the ſaid letters of attorney be atteſted before ſome Magiſtrate or Public Notary, where the ſame ſhall be made and executed, and certified under their reſpective hands and public ſeals, and be proved within this province or territories *viva voce*, by two witneſſes at leaſt.

Chap. 9. 12 William III. A. D. 1700.

An ACT *for taking lands in execution for the payment of debts, where the Sheriff cannot come at other effects to ſatisfy the ſame.*

TO the end that no creditors may be defrauded of the juſt debts, due to them by perſons of this province or territories, who have ſufficient real eſtates, if not perſonal, to ſatisfy the ſame, *Be it enacted by the Proprietary and Governor, by and with the advice and conſent of the freemen of the ſaid province, in General Aſſembly met, and by the authority of the ſame*, That all lands and houſes whatſoever within this government, ſhall be liable to ſale, upon judgment and execution obtained againſt the defendant, the owner, his heirs, executors or adminiſtrators, where no ſufficient perſonal eſtate is to be found; with this due proviſo, That the meſſuage and plantation, with its appurtenances, upon which the defendant is chiefly ſeated, ſhall not be expoſed to ſale before the expiration of one whole year after judgment is obtained; to the intent

Real eſtates liable to ſale for payment of debts.

But the chief houſe a year after judgment.

intent that the defendant, or any other, on his behalf, may endeavour the redemption of the ſame: And before any ſuch lands, meſſuages or houſes, or any other lands, or houſes whatſoever, taken in execution, ſhall be ſold, they ſhall be duly appraiſed by twelve honeſt and diſcreet men of the neighbourhood; and that then it ſhall and may be lawful for the Sheriff to make ſale of and convey the ſame under his hand and ſeal. After which ſale and appraiſement made as aforeſaid, ſuch land and houſes ſhall be and remain a free and clear eſtate to the purchaſer or creditor to whom they are ſo made over or ſold, his heirs and aſſigns forever, as fully and amply as ever they were to the debtor.

12 William III. A. D. 1700.

All the lands to be appraiſed.

Provided always, and be it further enacted, That lawful intereſt ſhall be allowed to the creditor for the ſum or value he obtained judgment for, from the time the ſaid judgment was obtained till the time of ſale, or till ſatisfaction be made.

The creditors to have intereſt till ſatisfaction.

Provided alſo, That the chief plantation or meſſuage ſhall be the laſt taken in execution; and that where the appraiſement of the lands taken in execution amounts to more than the debt, coſts and damage, the creditor ſhall not be obliged in ſuch caſe to take the whole, and pay the overplus; but ſhall only take ſo much as to ſatisfy the execution, and no more.

And ſo much of the land as will pay the debts, &c.

The Charter of Privileges, granted by William Penn, eſq. to the inhabitants of Pennſylvania, and territories.

13 William III October 28th, A. D. 1701.

WILLIAM PENN, Proprietary and Governor of the province of Pennſylvania and territories thereunto belonging, to all to whom theſe preſents ſhall come, ſendeth greeting. *Whereas* King Charles the Second by his letters patents, under the Great Seal of England, bearing date the fourth day of March, in the year One Thouſand Six Hundred and Eighty, was graciouſly pleaſed to give and grant unto me, and my heirs and aſſigns for ever, this province of Pennſylvania,

Preamble.

13 William III. A. D. 1781.

Pennsylvania, with divers great powers and jurisdictions for the well government thereof.

And whereas the King's dearest brother, James Duke of York and Albany, &c. by his deeds of feoffment, under his hand and seal duly perfected, bearing date the twenty-fourth day of August, One Thousand Six Hundred Eighty and Two, did grant unto me, my heirs and assigns, all that tract of land, now called the territories of Pennsylvania, together with powers and jurisdictions for the good government thereof.

And whereas, for the encouragement of all the freemen and planters, that might be concerned in the said province and territories, and for the good government thereof, I the said William Penn, in the year One Thousand Six Hundred Eighty and Three, for me, my heirs and assigns, did grant and confirm unto all the freemen, planters and adventurers therein, divers liberties, franchises and properties, as by the said grant, entituled, *The frame of the government of the province of Pennsylvania, and territories thereunto belonging, in America*, may appear; which charter or frame being found, in some parts of it, not so suitable to the present circumstances of the inhabitants, was in the third month, in the year One Thousand Seven Hundred, delivered up to me, by six parts of seven of the freemen of this province and territories, in General Assembly met, provision being made in the said charter, for that end and purpose.

And whereas I was then pleased to promise, That I would restore the said charter to them again, with necessary alterations, or in lieu thereof, give them another, better adapted to answer the present circumstances and conditions of the said inhabitants; which they have now, by their representatives in General Assembly met at Philadelphia, requested me to grant.

Know ye therefore, That for the further well being and good government of the said province, and territories; and in pursuance of the rights and powers before mentioned, I the said William Penn do declare, grant and confirm, unto all the freemen, planters and adventurers, and other inhabitants in this province and territories, these following liberties, franchises and privileges, so far as in me lieth, to be held

held, enjoyed and kept, by the freemen, planters and adventurers, and other inhabitants of and in the ſaid province and territories thereunto annexed, for ever. 13 William III. A. D. 1701.

I. *Becauſe* no people can be truly happy, though under the greateſt enjoyment of civil liberties, if abridged of the freedom of their conſciences, as to their religious profeſſion and worſhip: And Almighty God being the only Lord of conſcience, Father of lights and ſpirits; and the Author as well as Object of all divine knowledge, faith and worſhip, who only doth enlighten the minds, and perſuade and convince the underſtandings of people, I do hereby grant and declare, That no perſon or perſons, inhabiting in this province or territories, who ſhall confeſs and acknowledge One Almighty God, the Creator, Upholder and Ruler of the world; and profeſs him or themſelves obliged to live quietly under the civil government, ſhall be in any caſe moleſted or prejudiced, in his or their perſon or eſtate, becauſe of his or their conſciencious perſuaſion or practice, nor be compelled to frequent or maintain any religious worſhip, place or miniſtry, contrary to his or their mind, or to do or ſuffer any other act or thing, contrary to their religious perſuaſion.

No perſon believing in One God, &c. ſhall be moleſted on account of his religious perſuaſion;

nor be compelled to frequent or maintain any worſhip contrary to his mind, &c.

And that all perſons who alſo profeſs to believe in Jeſus Chriſt, the Saviour of the world, ſhall be capable (notwithſtanding their other perſuaſions and practices in point of conſcience and religion) to ſerve this government in any capacity, both Legiſlatively and Executively, he or they ſolemnly promiſing, when lawfully required, allegiance to the King as Sovereign, and fidelity to the Proprietary and Governor, and taking the atteſts as now eſtabliſhed by the law made at New-Caſtle, in the year One Thouſand and Seven Hundred, entitled, *An act directing the atteſts of ſeveral officers and miniſters*, as now amended and confirmed this preſent Aſſembly.

Chriſtians of all denominations are capable of offices, promiſing allegiance to the King, &c.

II. *For* the well governing of this province and territories, there ſhall be an Aſſembly yearly choſen, by the freemen thereof, to conſiſt of four perſons out of each county, of moſt note for virtue, wiſdom and ability, (or of a greater number at any time, as the Governor and Aſſembly ſhall agree) upon the firſt day

An Aſſembly ſhall be choſen yearly.

13 William III. A. D. 1701.

day of October for ever; and ſhall ſit on the fourteenth day of the ſame month, at Philadelphia, unleſs the Governor and Council for the time being, ſhall ſee cauſe to appoint another place within the ſaid province or territories: Which Aſſembly ſhall have power to chuſe a Speaker and other their officers; and ſhall be judges of the qualifications and elections of their own Members; ſit upon their own adjournments; appoint Committees; prepare bills in order to paſs into laws; impeach criminals, and redreſs grievances; and ſhall have all other powers and privileges of an Aſſembly, according to the rights of the freeborn ſubjects of England, and as is uſual in any of the King's plantations in America.

Their powers and privileges.

And if any county or counties, ſhall refuſe or neglect to chuſe their reſpective Repreſentatives as aforeſaid, or if choſen, do not meet to ſerve in Aſſembly, thoſe who are ſo choſen and met, ſhall have the full power of an Aſſembly, in as ample manner as if all the Repreſentatives had been choſen and met, provided they are not leſs than two thirds of the whole number that ought to meet.

Two thirds met ſhall have the power of the whole.

And that the qualifications of electors and elected, and all other matters and things relating to elections of Repreſentatives to ſerve in Aſſemblies, though not herein particularly expreſſed, ſhall be and remain as by a law of this government, made at New-Caſtle, in the year One Thouſand Seven Hundred, entituled, *An act to aſcertain the number of Members of Aſſembly, and to regulate the elections.*

The qualifications of electors and elected.

III. *That* the freemen in each reſpective county, at the time and place of meeting for electing their Repreſentatives to ſerve in Aſſembly, may as often as there ſhall be occaſion, chuſe a double number of perſons to preſent to the Governor for Sheriffs and Coroners, to ſerve for three years, if ſo long they behave themſelves well; out of which reſpective elections and preſentments, the Governor ſhall nominate and commiſſionate one for each of the ſaid offices, the third day after ſuch preſentment, or elſe the firſt named in ſuch preſentment, for each office as aforeſaid, ſhall ſtand and ſerve in that office for the time before reſpectively limited; and in caſe of death or

Power to chuſe Sheriffs and Coroners.

default

default, ſuch vacancies ſhall be ſupplied by the Governor, to ſerve to the end of the ſaid term. 13 William III. A. D. 1701.

Provided always, That if the ſaid freemen ſhall at any time neglect or decline to chooſe a perſon or perſons for either or both the aforeſaid offices, then, and in ſuch caſe, the perſons that are or ſhall be in the reſpective offices of Sheriffs or Coroners, at the time of election, ſhall remain therein, until they ſhall be removed by another election as aforeſaid.

And that the Juſtices of the reſpective counties ſhall or may nominate and preſent to the Governor three perſons, to ſerve for Clerk of the Peace for the ſaid county, when there is a vacancy, one of which the Governor ſhall commiſſionate within ten days after ſuch preſentment, or elſe the firſt nominated ſhall ſerve in the ſaid office during good behaviour. Clerk of the Peace to be nominated by the Juſtices, &c.

IV. *That* the laws of this government ſhall be in this ſtile, *viz. By the Governor, with the conſent and approbation of the freemen in General Aſſembly met*; and ſhall be, after confirmation by the Governor, forthwith recorded in the Rolls Office, and kept at Philadelphia, unleſs the Governor and Aſſembly ſhall agree to appoint another place. Stile of the laws.

V. *That* all criminals ſhall have the ſame privileges of witneſſes and council as their proſecutors. Criminals may have council, &c.

VI. *That* no perſon or perſons ſhall or may, at any time hereafter, be obliged to anſwer any complaint, matter or thing whatſoever, relating to property, before the Governor and Council, or in any other place, but in ordinary courſe of juſtice, unleſs appeals thereunto ſhall be hereafter by law appointed. None ſhall be obliged to anſwer, but in ordinary courſe of juſtice.

VII. *That* no perſon within this government, ſhall be licenſed by the Governor to keep an ordinary, tavern, or houſe of public entertainment, but ſuch who are firſt recommended to him, under the hands of the Juſtices of the reſpective counties, ſigned in open court; which Juſtices are and ſhall be hereby impowered, to ſuppreſs and forbid any perſon keeping ſuch public houſe as aforeſaid, upon their miſbehaviour, on ſuch penalties as the law doth or ſhall direct; and to recommend others, from time to time, as they ſhall ſee occaſion. Tavern-keepers, &c. to be recommended before licenſed.

VIII. *If* any perſon, through temptation or melancholy,

13 William III. A. D. 1701.

choly, ſhall deſtroy himſelf, his eſtate, real and perſonal, ſhall notwithſtanding deſcend to his wife and children, or relations, as if he had died a natural death; and if any perſon ſhall be deſtroyed or killed by caſualty or accident, there ſhall be no forfeiture to the Governor by reaſon thereof.

The eſtate of perſons deſtroying themſelves, ſhall deſcend to their heirs.

And no act, law or ordinance whatſoever, ſhall at any time hereafter, be made or done, to alter, change or diminiſh the form or effect of this charter, or of any part or clauſe therein, contrary to the true intent and meaning thereof, without the conſent of the Governor for the time being, and ſix parts of ſeven of the Aſſembly met.

No law, &c. ſhall alter this charter, without, &c.

But, becauſe the happineſs of mankind depends ſo much upon the enjoying of liberty of their conſciences, as aforeſaid, I do hereby ſolemnly declare, promiſe and grant, for me, my heirs and aſſigns, That the firſt article of this charter relating to liberty of conſcience, and every part and clauſe therein, according to the true intent and meaning thereof, ſhall be kept and remain, without any alteration, inviolably for ever.

The article relating to liberty of conſcience ſhall be inviolable for ever.

And laſtly, I the ſaid William Penn, Proprietary and Governor of the province of Pennſylvania, and territories thereunto belonging, for myſelf, my heirs and aſſigns, have ſolemnly declared, granted and confirmed, and do hereby ſolemnly declare, grant and confirm, That neither I, my heirs or aſſigns, ſhall procure or do any thing or things whereby the liberties in this charter contained and expreſſed, nor any part thereof, ſhall be infringed or broken: And if any thing ſhall be procured or done, by any perſon or perſons, contrary to theſe preſents, it ſhall be held of no force or effect.

The Proprietary ſolemnly confirms this charter.

In witneſs whereof, I the ſaid William Penn, at Philadelphia in Pennſylvania, have unto this preſent charter of liberties, ſet my hand and broad ſeal, this twenty-eighth day of October, in the year of our Lord One Thouſand Seven Hundred and One, being the thirteenth year of the reign of King William the Third, over England, Scotland, France and Ireland, *&c.* and the twenty-firſt year of my government.

Date.

And notwithſtanding the cloſure and teſt of this preſent

ſent charter as aforeſaid, I think fit to add this following proviſo thereunto, as part of the ſame, *That is to ſay*, That notwithſtanding any clauſe or clauſes in the above mentioned charter, obliging the province and territories to join together in legiſlation, I am content, and do hereby declare, that if the Repreſentatives of the province and territories ſhall not hereafter agree to join together in legiſlation, and that the ſame ſhall be ſignified unto me, or my deputy, in open Aſſembly, or otherwiſe, from under the hands and ſeals of the Repreſentatives, for the time being, of the province and territories, or the major part of either of them, at any time within three years from the date hereof, that in ſuch caſe, the inhabitants of each of the three counties of this province, ſhall not have leſs than eight perſons to repreſent them in Aſſembly, for the province; and the inhabitants of the town of Philadelphia (when the ſaid town is incorporated) two perſons to repreſent them in Aſſembly; and the inhabitants of each county in the territories, ſhall have as many perſons to repreſent them in a diſtinct Aſſembly for the territories, as ſhall be by them requeſted as aforeſaid.

13 William III. A. D. 1701.

Proviſo, that the province and territories may ſeparate in legiſlation:

Notwithſtanding which ſeparation of the province and territories, in reſpect of legiſlation, I do hereby promiſe, grant and declare, That the inhabitants of both province and territories, ſhall ſeparately enjoy all other liberties, privileges and benefits, granted jointly to them in this charter, any law, uſage or cuſtom of this government, heretofore made and practiſed, or any law made and paſſed by this General Aſſembly, to the contrary hereof, notwithſtanding.

And ſhall nevertheleſs enjoy ſeparately the privileges granted to them jointly.

WILLIAM PENN.

THIS

13 William III. A. D. 1701.

Acceptation.

THIS Charter of Privileges being diſtinctly read in Aſſembly; and the whole, and every part thereof, being approved of, and agreed to, by us, we do thankfully receive the ſame from our Proprietary and Governor, at Philadelphia, this twenty-eighth day of October, One Thouſand Seven Hundred and One. Signed on behalf, and by order of the Aſſembly, per

JOSEPH GROWDON, Speaker.

EDWARD SHIPPEN,	GRIFFITH OWEN,
PHINEAS PEMBERTON,	CALEB PUSEY,
SAMUEL CARPENTER,	THOMAS STORY,

Proprietary and Governor's Council.

Note, That the foregoing Charter of Privileges was ſigned and accepted as aforeſaid on the laſt day of a ſeſſion of the General Aſſembly of the ſaid province of Pennſylvania and the territories, which had commenced on the fifteenth day of September preceding, that during this ſeſſion a bill for the confirmation of the laws at New-Caſtle, of the preceding year One Thouſand Seven Hundred, had been brought into the Houſe of Repreſentatives by two Members of Council, and on "the vote being put, (*to wit*, the "tenth day of October) whether the ſaid bill for "confirmation of laws ſhould paſs into a law, with "ſuch amendments as may be thought needful? "ſeveral members roſe up and left the houſe, *viz.* Jaſ-"per Yeates, John Donaldſon, Richard Hallowell, "Adam Peterſon, William Rodney, John Brinkloe, "John Walker, William Morton and Luke Wat-"ſon, junior—and the vote was immediately carried "in the affirmative by the remaining members, be-"ing fourteen in number, N. C. D.—*to wit*, the twelve members from the three counties of the province, and two of the members from the county of Suſſex, namely, William Clark and Samuel Preſton, the remaining member from that county, Joſeph Booth, being ſick, attended not during that ſeſſion, and the abſenting members aforeſaid not returning until the fifteenth day of October, "They then came "into the Houſe and declare—They are willing to

"join

" join with the reſt of the members, provided they " might have liberty to enter their diſſent to the bill " for the confirming of the laws, and that nothing " may be carried over their heads by over-voting " them; and declared they are willing to do any " thing for the good and tranquility of the govern- " ment—upon which they withdrew. Being called " into the Houſe again, they were told they ſhould " have liberty to enter their diſſent, provided they " kept to the matter; but as for this Houſe to pro- " miſe not to over-vote them, it was a thing ſo im- " practicable, and ſuch an infringement of the pri- " vileges of Aſſemblies, that they could not yield to " that." " The bill for confirmation of the laws of " this province and territories was read—and pro- " poſed the reading of the laws three times over; " upon which the aforeſaid abſenting members de- " parted the Houſe again." A. D. 1701.

" Put to the vote whether the laws be again read, " for a ſecond reading, and carried in the affirma- " tive."——In the afternoon of the ſame day, after the return of the Houſe from a conference had with the Governor, " The main purport of which as re- " ported by the Speaker (Joſeph Growdon) was to " endeavour an accommodation with the abſenting " members, who alſo delivered a letter from the Go- " vernor directed to the Speaker to be communicated " to the whole Houſe, which (upon the abſenting " members coming into the Houſe) was read, and " alſo a paper brought in by the ſaid members, which " was read and debated.

" *The Governor's letter was in theſe words.*

" Friends—Your union is what I deſire; but your " peace and accommodating of one another is what " I muſt expect from you: The reputation of it is " ſomething, the reality much more. And I deſire " you to remember and obſerve what I ſay: Yield " in circumſtantials to preſerve eſſentials; and being " ſafe in one another, you will always be ſo in eſteem

" with

A. D. 1701.

" with me. Make me not ſad, now I am going to " leave you, ſince it is for you, as well as for

" Your Friend and Proprietary and Governor,

WILLIAM PENN.

" *October* 15*th*, 1701.

" Jaſper Yeates, Major John Donaldſon, Richard " Hallowell, Adam Peterſon, William Rodney, John " Brinkloe, William Morton, John Walker, and " Luke Watſon, junior, declared their negative to " the paſſing a bill for confirmation of the laws paſſed " at New-Caſtle, having never diſputed their validi- " ty, and for ſeveral reaſons given in to the Gover- " nor againſt that act. On which the abſenting " members ſat down, the Governor having aſſured " this Houſe, that nothing further than what lay " before them ſhould be offered to the Houſe from " him, nor received by him from them."—After which the ſaid abſenting members continued to act in the Houſe during the remaining part of that ſeſſion: But to prevent the effects of ſuch an after conduct, the two laſt proviſo ſections were added to the charter of privileges aforeſaid.—After the riſing of that General Aſſembly and their diſſolution on the ſaid twenty-eighth day of October One Thouſand Seven Hundred and One, the Proprietary and Governor William Penn went to England; and the Repreſentatives of the ſaid two diſtricts, *to wit*, province of Pennſylvania and territories never thereafter joined in any acts of legiſlation, although many attempts were made by the Deputy Governors and Council to continue their union. The laſt of which attempts was by Governor Evans in April One Thouſand Seven Hundred and Four, which ended with the reſpective papers following addreſſed by each ſet of Repreſentatives to the other, *to wit*,

" *To the Repreſentatives of the Province of Pennſylvania.*

" WE the Repreſentatives of the counties of New- " Caſtle, Kent and Suſſex (being by virtue of the Go-

" vernor's

" vernor's writ for election) met at Philadelphia, on A. D. 1704.
" the tenth day of this inſtant, in expectation to
" have joined in Aſſembly with the Repreſentatives
" for the province of Pennſylvania, found ourſelves
" diſappointed therein, by their pretending a former
" ſeparation; wherefore we think it our duty to ma-
" niſeſt and declare, how unwilling we are to ad-
" mit of any ſuch thing as a diſunion, being afraid
" that the conſequences thereof muſt of neceſſity
" prove prejudicial to the peace and intereſt of the
" Proprietary and government. We therefore, being
" very ſenſible of the ſame, do declare, that for the
" quietneſs and proſperity of the government, we are
" ſatisfied and content to accept of the charter given
" and granted by William Penn, eſq. Proprietary
" and Governor, *&c.* dated at Philadelphia the
" twenty-eighth day of October, One Thouſand Se-
" ven Hundred and One, according to the true in-
" tent and meaning of the ſame; and as it was then
" given *(That is to ſay,)* If the province will join with
" us in repreſenting the ſame by four Members out
" of each county, ſo that our Repreſentatives may
" be equal in number, conform to the ſecond arti-
" cle of the ſaid charter, and the ancient uſe and
" practice of this government; the which is now of-
" fered by us, not doubting of your ſatisfactory an-
" ſwer in writing. Signed by

" James Couts,	" William Morton,
" John Healy,	" Arthur Meston,
" Roelof De Haes,	" John Hill,
" Isaac Gooding,	" William Bagwell,
" William Rodney,	" Robert Burton,
" John Brinkloe,	" Richard Painter,

" Dated at Philadelphia, April 13, 1704."

" *To the Repreſentatives of the freemen of the territories of*
" *the province of Pennſylvania.*

" WE the Repreſentatives of the freemen of the
" ſaid province in Aſſembly met, this thirteenth day
" of the month called April, One Thouſand Seven
" Hundred and Four, having received this day a
" certain

A. D. 1704.

" certain paper of propoſals from you, return for an-
" ſwer,

" That we are ſorry you ſhould in that paper
" pretend you met here in expectation of joining with
" us in Aſſembly; whereas yourſelves declared in
" the conference we had with you yeſterday, that
" you could not act in conjunction with us, in re-
" gard you were called by the Governor's writ, and
" we by the charter. We cannot conceive how you
" now can call the diſunion a pretended one, which
" has been ſo often debated in Aſſembly, and which
" the actions of your Repreſentatives forced upon us,
" by their refuſing to act with us on ſeveral occa-
" ſions; and particularly by your ſlight of the ſaid
" charter, in neglecting to chooſe Repreſentatives to
" ſerve in Aſſembly in October, One Thouſand Se-
" ven Hundred and Two. And notwithſtanding the
" then Lieutenant Governor was pleaſed to indulge
" you in iſſuing forth his writs, impowering the coun-
" ties you repreſent to make a new election, which
" they ſo far complied withal, as to chooſe and ſend
" up their Delegates to meet thoſe of the province
" upon the ſixteenth of November then following,
" according to the tenor of the ſaid writ: Yet your
" Repreſentatives (whereas as aforeſaid aſſembled with
" them of the province, after ſeveral debates between
" them about acting conjointly) were pleaſed to ex-
" preſs their unwillingneſs thereunto; and further
" declared their diſlike of the ſaid charter, and re-
" fuſed to agree to join together with us, to act by it
" in legiſlation; all which was more at large ſignified
" by the Repreſentatives of the province under their
" hands and ſeals, to the then Lieutenant Governor;
" whereunto they were neceſſitated by direction of the
" charter, after the oppoſition made to the ſaid uni-
" on by your Repreſentatives; ſo that being by vir-
" tue of the ſaid charter formed into a diſtinct Aſ-
" ſembly, and our members ſettled accordingly, we
" conceive it is not now in our power to alter our
" ſaid numbers without a violation of the charter
" and truſt repoſed in us by thoſe we repreſent; nei-
" ther can we conceive any expedient propoſed by
" you (though deſired by us in the conference yeſter-
" day)

" day) to reconcile your requeſt of an union with the " ſaid charter (our preſent circumſtances conſidered) " which we preſume is a duty incumbent on you at " whoſe door the diſunion is, ſince you ſeem to de- " ſire a re-uniting. A. D. 1704.

" We need not inform you, that by this charter " you ſtill have the opportunity of forming yourſelves " into a diſtinct Aſſembly, and enjoying the privi- " leges thereof as well as the province; which we " hope, by our candour and good neighbourhood " towards each other may prevent the inconveniency " and prejudice you ſeem to doubt as the conſequence " of our acting ſeparately, and not prove prejudicial " to the proſperity and ſafety of the government, un- " der the preſent adminiſtration.

" This being our plain and genuine anſwer---we " hope it will prove ſatisfactory to you, from your " real friends and wellwiſhers.

" *Signed by order, and on behalf of*
" *the Houſe of Repreſentatives, by*

DAVID LLOYD, Speaker.

The foregoing note and extracts have been made from a book, intituled, *Votes and proceedings of the Houſe of Repreſentatives of the province of Pennſylvania, Beginning the fourth day of December, One Thouſand Six Hundred and Eighty-two, volume the firſt in two parts*; Printed at Philadelphia by B. Franklin and D. Hall, *anno* One Thouſand Seven Hundred and Fifty-two.---There being no minutes of Legiſlative proceedings of ſuch an early period exiſting in the ſtate of Delaware, herein before ſtiled the territories, *&c.* The traditional account is that all ſuch minutes, preceding the year One Thouſand Seven Hundred and Twenty-two, were deſtroyed about that time by fire at the burning of Colonel John French's houſe in New-Caſtle, in which it is ſaid they were when that accident happened.

A. D. 1704.

CHAP. XI. a.

An ACT *about acknowledging and recording deeds.*

BE *it enacted by the honourable John Evans, esq. with her Majesty's royal approbation, Lieutenant Governor of the counties of New-Castle, Kent and Sussex, on Delaware, and province of Pennsylvania, by and with the advice and consent of the freemen of the said counties in General Assembly met, and by the authority of the same,* That all deeds, gifts, grants, sales, mortgages, leases, settlements, conveyances, releases and all other writings relating to titles of land shall be declared and acknowledged in the respective Courts of Common Pleas within this government. The form to be by the party or his lawful Attorney delivering the said deeds or other writings as aforesaid to the other party to whom made or his lawful Attorney in open Court; Which acknowledgment shall be in lieu of livery and seizin; and the same shall be available in law, *&c.*

And be it further enacted, That all such deeds, *&c.* shall be recorded or enrolled in the Rolls Office of each county within six months after passing such writings as aforesaid, to the end that all persons if they see fit may have knowledge thereof—Copies *&c.* of such records to be evidence, provided that they be attested by the Master of the Rolls or his deputy, who is hereby required to insert the time of recording in the record to be made thereof, *Provided also,* That the powers, *&c.* granted to any person for acknowledging be allowed and approved by the court and be recorded with such deeds, *&c.*

CHAP. XV. a.

1706. *An* ACT *for ascertaining the descent of lands and better disposition of the estate of persons dying intestate.*

BE *it enacted,* &c. That all lands, *&c.* and all personal estate, which any person hath or is seized

or

or poſſeſſed of in his or her own right at the time of his or her deceaſe, ſhall be liable to be ſeized and ſold by the lawful executor or adminiſtrator of the deceaſed, by any lawful deed or conveyance duly executed and approved and acknowledged in open court, or by judgment or order of the reſpective Courts of Record upon due procedures therein reſpectively had for the payment of the decedents juſt debts, ſo far as the ſaid eſtate ſhall extend in due order of law; *to wit*, funeral expences, *&c.* which ſaid ſeizures, ſales and payments ſhall be binding and concluſive againſt ſuch decedents and their heirs, and all perſons claiming under him or them, *&c.* A. D. 1706.

Provided, That the widow of an inteſtate, after debts paid, ſhall have one third of the perſonal eſtate, and the reſidue to be divided amongſt the children of the inteſtate, or ſuch as legally repreſent them, in caſe any be dead, other than ſuch children who ſhall have any eſtate by ſettlement or advanced by the inteſtate in his life time by portions equal to the ſhare of the other children, and if not equal to be made ſo, provided the eldeſt ſon have a double ſhare. And in caſe there be no child or children, nor legal repreſentatives of them, the one moiety of ſuch eſtate ſhall be allotted to the widow, and the reſidue of the ſaid eſtate diſtributed equally to every of the next of kindred of the inteſtate, who are in equal degree, and thoſe who repreſent them. In caſe the inteſtate ſhall have no widow then all the ſaid eſtate ſhall be diſtributed equally to and amongſt the children, the eldeſt ſon having a double ſhare as aforeſaid; and in caſe there be no children then to the next of kindred of the inteſtate in equal degree and their legal repreſentatives as aforeſaid and in no other manner—Dying without kindred, lands to go to the immediate landlord—Lands of teſtators to go according to their wills, provided the widows of ſuch have a third—Widow to have a third of her inteſtate's lands during life, and the reſidue to be diſtributed in the ſame manner as ſurpluſage of inteſtate's perſonal eſtate above limited, giving refunding bonds. And that all ſuch of inteſtates relations and perſons concerned who ſhall not lay claim to their reſpective ſhares of ſuch eſtates

within

A. D. 1706. within ſeven years after the death of the inteſtate ſhall be debarred of the ſame forever. *Provided*, &c. That this law extend not to perſons reſiding within the kingdom of England having eſtates within this government, unleſs as to the payment of debts, the eſtate whether real or perſonal ſhall be liable to be ſold therefor upon due proceeding had for the recovery thereof in any Court of Record within this government, as fully, *&c.* as if reſidenters, *&c.*

CHAP. XVIII. a.

1706. *An* ACT *confirming deviſes of lands, and the validity of nuncupative wills.*

TO the end that lands and hereditaments may be enjoyed by the deviſee and his heirs as amply as lands granted by deed by the grantee; *Be it enacted by the honourable John Evans, eſq. with her Majeſty's royal approbation, Lieutenant Governor of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, and province of Pennſylvania, by and with the advice and conſent of the freemen of the ſaid counties, in General Aſſembly met, and by the authority of the ſame,* That all wills in writing, wherein or whereby any lands, tenements, or hereditaments, within this her Majeſty's government, are or ſhall be deviſed, ſhall be as good and authentic in law (according to the tenor thereof) as any other conveyance for granting of ſuch lands and premiſes, whether the ſaid wills be made within or out of this government, *Provided* the ſame be legally proved within this government, or in the Chancery in England.

Wills to be proved, within certain times. *Provided always*, That ſuch wills as are made within this government, ſhall be proved within forty days after the death of ſuch teſtator, and if in any other of her Majeſty's governments in America, within ſix months, and if made in England, then within eighteen months after ſuch teſtator's death, as aforeſaid.

And, for the prevention of all diſadvantages and hardſhips that may accrue to any perſon for want of due proof of nuncupative wills, or verbal wills, or by

any

any pretending the ſame where no ſuch will really is; *Be it enacted by the authority aforeſaid*, That all nuncupative wills made in this government, ſhall be of full force for all goods and chattels thereby deviſed or bequeathed: *Provided always*, That the ſaid nuncupative wills ſhall be reduced into writing within two days after the deceaſe of the ſaid teſtator, and ſubſcribed by two ſufficient witneſſes who were preſent, and heard the teſtator make the will, to be atteſted or ſworn by any Juſtice of the Peace of the truth of the ſaid nuncupative or verbal will, within forty days after the death of the ſaid teſtator; which ſaid will being proved in the Regiſter's Office in this government, within the ſaid time limited next after the teſtator's death, ſhall be good and valid in law, according to the purport thereof, for all goods and chattels therein bequeathed, as if the ſame had been originally made in writing by the teſtator, and duly executed as aforeſaid.

A. D. 1706.

Nuncupative wills to be reduced to writing, &c.

And be it further enacted by the authority aforeſaid, That no will or teſtament, or nuncupative will of any perſon *non compos mentis*, at the time of the making thereof, ſhall be good and valid in law.

CHAP. XXIII. a.

An ACT *to encourage the building of good mills in this government.* 1719.

WHEREAS it is greatly for the eaſe of the people to be commodiouſly ſerved with good mills for grinding their corn, and the advantage thereof being obvious in the neighbouring governments, where good laws have been enacted for that purpoſe: We therefore pray that it may be enacted,

Preamble.

And be it enacted by William Keith, eſq. by his Majeſty's royal approbation and appointment Lieutenant Governor in and over the counties of New-Caſtle, Kent, and Suſſex, upon Delaware, by and with the conſent of the Repreſentatives of the freemen in the ſaid counties, in Aſſembly met, and by the authority of the ſame, That on whatſoever

A. D. 1719.

Method of obtaining adjacent land for the convenience of a mill.

whatſoever creeks, rivers, or runs, within this government, any water mill is built, or intended to be built, if on either ſide of the ſaid creeks, rivers or runs, if the owner or projector of the ſaid mill or mills have a real property in a part of the land fit to be uſed for that purpoſe, or upon which he has already built a mill or mills, yet nevertheleſs cannot perfect or ſecure the ſame without purchaſing and obtaining ſome other ſmall ſhare of adjacent land, which at the time may happen to be another man's property; in order to convey the water conveniently to and from the ſaid mill or mills, then and in that caſe the owner and proprietor of ſuch mill or mills may apply himſelf to any two Juſtices of the Peace of that county, and thereupon the ſaid magiſtrates are hereby required and directed, by their precept to the Sheriff, to cauſe ſix freeholders to be ſummoned before them, who ſhall upon their oaths or affirmations determine the true and intrinſick value of the ſaid adjacent land, not exceeding the quantity of ſix acres in the county of New-Caſtle, and two acres in each of the other counties, on either ſide of the ſaid creeks, rivers, or runs, where ſuch mill or mills are built or intended to be built; and alſo the damage and loſs which they judge may be to the owner of ſuch adjacent land, or any other perſon or perſons whatſoever; and after a verdict given by the ſaid freeholders; the ſaid juſtices are likewiſe hereby commanded, by a certain inſtrument, under their hands and ſeals, to certify and return the verdict and determination of the ſaid freeholders unto the next County Court, where it ſhall remain upon record, and ſhall for ever transfer a good title in fee of the ſaid adjacent land, not exceeding the quantities aforeſaid, reſpectively ſo valued to the owner or projector of ſuch mill or mills; and alſo ſhall create a debt upon the ſaid owner or projector's eſtate for the ſaid determined value unto him and his heirs, from whom the ſaid adjacent lands were ſo adjudged and taken.

Paſſed in 1719.

CHAP.

A. D. 1721.

CHAP. XXXI. a.

An ACT *for the better ſettling inteſtates eſtates.*

BE *it enacted by the honourable ſir* William Keith, *baronet, with the royal approbation, Lieutenant Governor of the province of Pennſylvania, and the counties of New-Caſtle, Kent and Suſſex, on Delaware, by and with the advice and conſent of the freemen of the ſaid counties in Aſſembly met, and by the authority of the ſame,* That the Regiſters of the ſeveral counties of this government, having power to grant letters of adminiſtration of the goods and chattels of perſons dying inteſtate within this government, ſhall upon their granting ſuch letters of adminiſtration, take ſufficient bonds with two or more able ſureties (reſpect being had to the value of the eſtate) in the name of the Governor for the time being, with the condition in manner and form following, *mutatis mutandis* (viz).

Repealed, ſee after in chap. 101 a.

Regiſters granting letters of adminiſtration ſhall take ſufficient bonds, &c.

THE condition of this obligation is ſuch, that if the within bounden A. B. *adminiſtrator of all and ſingular the goods, and chattels, and credits of* C. D. *deceaſed, do make or cauſe to be made, a true and perfect inventory of all and ſingular the goods, and chattels, and credits of the ſaid deceaſed, which have or ſhall come to the hands, poſſeſſion or knowledge of him the ſaid* A. B. *or unto the hands and poſſeſſion of any other perſon or perſons for him; and the ſame, ſo made, do exhibit, or cauſe to be exhibited into the Regiſter's Office of the county of at or before the day of next enſuing; and the ſame goods, chattels and credits of the ſaid decedant, at the time of his death, or which at any time after ſhall come to the hands or poſſeſſion of the ſaid* A. B. *or into the hands and poſſeſſion of any other perſon or perſons for him, do well and truly adminiſter according to law; and further, do make or cauſe to be made a true and juſt account of his ſaid adminiſtration at or before the day of and all the reſt and reſidue of the ſaid goods, chattels and credits which ſhall be found remaining upon the ſaid adminiſtrators account (the ſame being firſt examined and allowed of by the Orphans Court of the county where the ſaid adminiſtration is granted) ſhall deliver and pay unto ſuch perſon or perſons reſpectively, as the ſaid*

Form of the condition.

A. D. 1721.

ſaid Orphans Court in the reſpective county, by their decree or ſentence, purſuant to the true intent and meaning of this act, ſhall limit and appoint: And if it ſhall hereafter appear, that any laſt will and teſtament was made by the ſaid decedant, and the executor or executors therein named, do exhibit the ſame into the Regiſter's Office, making requeſt to have it allowed and approved accordingly: If the ſaid A. B. *within bounden, being thereunto required, do render and deliver the ſaid letters of adminiſtration (approbation of ſuch teſtament being firſt had and made in the ſaid Regiſter's Office) then this obligation to be void and of none effect, or elſe to remain in full force and virtue.*

Orphans Court may call adminiſtrators to account, and order diſtribution, &c.

Which bonds are hereby declared and enacted to be good to all intents and purpoſes, and pleadable in any Courts of Juſtice; and alſo that the ſaid Orphans Court in the reſpective counties, ſhall and may, and are hereby enabled to proceed and call ſuch adminiſtrators to account for and touching the goods of any perſon dying inteſtate; and upon hearing and due conſideration thereof, to order and make juſt and equal diſtribution of what remaineth clear, (after all debts, funerals and juſt expences of every ſort firſt allowed and deducted) amongſt the wife and children, and childrens children (if any ſuch be) or otherwiſe to the next of kindred to the deceaſed perſon, in equal degree, or legally repreſenting their ſtocks, to every one his right, according to the laws in ſuch caſes, and the rules and limitations hereafter ſet down: And the ſame diſtributions to decree and ſettle, and to compel ſuch adminiſtrators to obſerve and pay the ſame, by the due courſe of the laws of this government; ſaving to every one (ſuppoſing him or themſelves grieved) their right of appeal to the Provincial or Supreme Court of this government.

Provided always, That the ſaid Orphans Court in each county, which is by this act enabled to make diſtribution of the ſurpluſage of the eſtate of any perſon dying inteſtate, ſhall diſtribute the whole ſurpluſage of ſuch eſtates in manner and form following, *That is to ſay*, One third part of the ſaid ſurpluſage to the wife of the inteſtate, and all the reſidue by equal portions, to and among the children of ſuch perſons dying inteſtate, and to ſuch perſons as ſhall legally

Manner of diſtribution.

A. D. 1721.

gally repreſent ſuch children, in caſe any of the children be then dead (other than ſuch child or children who ſhall have any eſtate by the ſettlement of the inteſtate, or ſhall be advanced by him in his lifetime by portion or portions, equal to the ſhare which ſhall by ſuch diſtribution be allotted to the other children) to whom ſuch diſtributions are to be made. And in caſe any child, who ſhall have any eſtate by ſettlement from the inteſtate, or ſhall be advanced by the ſaid inteſtate, in his lifetime by portion, not equal to the ſhare which will be due to the other children by ſuch diſtribution, as aforeſaid, then ſo much of the ſurpluſage of the eſtate of ſuch inteſtate, to be diſtributed to ſuch child or children as ſhall have any land by ſettlement from the inteſtate, or were advanced in the lifetime of the inteſtate, as ſhall make the eſtate of all the ſaid children to be equal, as near as can be eſtimated as aforeſaid.

Caſe of children that have been advanced in the inteſtate's lifetime.

And in caſe there be no children, nor any legal repreſentatives of them, then one moiety of the ſaid eſtate to be allotted to the wife of the inteſtate, and the reſidue of the ſaid eſtate to be diſtributed equally to every of the next kindred of the inteſtate, who are in equal degree to thoſe who legally repreſent them.

Where there are no children, the wife to have one moiety, &c.

Provided, That there be no repreſentatives admitted amongſt collaterals, after brothers and ſiſters children. And in caſe there be no wife, then all the ſaid eſtate to be diſtributed equally to and amongſt the children, the eldeſt ſon to have two ſhares as aforeſaid.

If no wife, eldeſt ſon to have two ſhares.

And in caſe there be no child, then to the next of kindred, in equal degree of or unto the inteſtate, and their legal repreſentatives, as aforeſaid, and in no other manner whatſoever.

Provided alſo, And to the end that a due regard be had to the creditors, that no ſuch diſtribution of the goods of any perſon dying inteſtate, be made till after one year be expired after the inteſtate's death. And that ſuch, and every one to whom any diſtribution and ſhare ſhall be allotted, ſhall give bond, with ſufficient ſureties, to the ſaid Orphans Court, in the name of the Governor for the time being, That if any debt or debts, truly owing by the inteſtate, ſhall be

No diſtribution to be made till after one year be expired, &c.

A. D. 1721.

afterwards ſued for and recovered, or otherwiſe duly to be made appear, that then, and in every ſuch caſe, he or ſhe ſhall reſpectively refund and pay back to the adminiſtrator, his or her rateable part of that debt or debts, and of the coſts of ſuit and charges of the adminiſtrator, by reaſon of ſuch debts, out of the part or ſhare, ſo as aforeſaid allotted to him or her, thereby to enable the ſaid adminiſtrator to pay and ſatisfy the ſaid debt or debts ſo diſcovered after the diſtribution made, as aforeſaid.

Proviſo in caſe of a teſtament annexed to the adminiſtration.

Provided always, and be it further enacted by the authority aforeſaid, That in all caſes where the Regiſter hath uſed heretofore to grant adminiſtration, with a teſtament annexed, he ſhall continue ſo to do; and the will of the deceaſed, in ſuch a teſtament expreſſed, ſhall be performed and obſerved in ſuch manner as it ſhould have been if this act had never been made.

Relations, &c. not laying claim in ſeven years to be debarred forever.

Provided alſo, That all ſuch of the inteſtate's relations, and perſons concerned, who ſhall not lay legal claim to their reſpective ſhares within ſeven years after the deceaſe of the inteſtate, ſhall be debarred from the ſame forever.

Perſonal eſtate not being ſufficient to pay debts, &c. lands may be ſold.

And be it further enacted by the authority aforeſaid, That if any perſon or perſons ſhall die inteſtate, being owners of lands and tenements within this government at the time of their death, and leave lawful iſſue to ſurvive them, but not a ſufficient perſonal eſtate to pay their juſt debts and maintain their children, then, and in ſuch caſe, it ſhall be lawful for the adminiſtrator or adminiſtrators of ſuch decedents, to ſell and convey ſuch part or parts of the ſaid lands or tenements for defraying their juſt debts, maintenance of their children, and for putting them apprentices, and teaching them to read and write, and for improvement of the reſidue of the eſtate (if any be) to their advantage, as the Orphans Court of the county where ſuch eſtate lies, ſhall think fit to allow, order and direct from time to time.

Except lands &c. contained in marriage ſettlements,

Provided always, That no lands or tenements contained in any marriage ſettlement, ſhall, by virtue of this act, be ſold or diſpoſed contrary to the form and effect of ſuch ſettlement; nor ſhall any Orphans Court allow or order any inteſtates lands or tenements to be

ſold,

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ſold, before the adminiſtrator, requeſting the ſame, doth exhibit one or more true and perfect inventories and conſcionable appraiſement of all the inteſtate's perſonal eſtate whatſoever; and alſo a juſt and true account, upon his or her ſolemn affirmation, of all the inteſtate's debts which ſhall be then come to his or her knowledge; and if thereupon it ſhall appear to the court, that the inteſtate's perſonal eſtate will not be ſufficient to pay the debts and maintain the children until the eldeſt of them attains to the age of twenty-one years, or to put them out to be apprentices or teach them to read and write, then and in every ſuch caſe, and not otherwiſe, the court ſhall allow ſuch adminiſtrator to make public ſale of the ſaid lands, as the court, upon the beſt computation they can make of the value thereof, ſhall adjudge neceſſary for the purpoſes aforeſaid, reſerving the manſion houſe and moſt profitable part of the eſtate till the laſt. But before any ſuch ſale be made, the court ſhall order ſo many writings to be made by the Clerk upon parchment or good paper as the court ſhall think fit to ſignify, and give notice of ſuch ſales, and of the day and hour when, and the place where the ſame will be, and what lands are to be ſold, and where they lie; which notice ſhall be delivered to the Sheriff or Conſtables, in order to be fixt in the moſt public places of the county, at leaſt ten days before the ſale; and the Sheriffs or Conſtables are hereby required to make publication accordingly: And the adminiſtrator that makes ſuch ſale, ſhall bring his or her proceeding therein to the next Orphans Court after the ſale made. And if it ſhall happen that any lands be ſold by virtue of this act for more than the court's computation of the value thereof, then the adminiſtrator ſhall be accountable for the ſame, as by this act is required for the inteſtate's perſonal eſtates.

Proceedings in the ſale of lands directed.

And be it further enacted by the authority aforeſaid, That the ſurpluſage or remaining parts of the inteſtate's lands, tenements and hereditaments, not ſold or ordered to be ſold by virtue of this act, and not otherwiſe limited by marriage ſettlement, ſhall be divided between the inteſtate's children, or the ſurvivors of them, who ſhall equally inherit, and make partition as tenants in common

Surpluſage upon ſale, how to be divided.

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common may or can do, the eldeſt ſon having a double ſhare.

If no child, the widow to have one moiety, &c.

But if the inteſtate leaves no child, then ſuch widow or relict ſhall inherit one moiety or half part of ſaid lands and tenements, and the other moiety ſhall deſcend and come to the inteſtate's next heir, according to the courſe of the common law.

If no children living, the heir at law inherits the lands, &c.

But if the inteſtate leaves no child living at the time of his death, or if the children all die in their minority, then the ſaid lands and tenements ſhall deſcend and come to the inteſtate's heir at law, according to the courſe aforeſaid.

Unleſs there be iſſue of children.

But if any of the inteſtate's children dying before the inteſtate, ſhall leave lawful iſſue, ſuch iſſue ſhall equally inherit the inteſtate's lands and tenements with their uncles and aunts, and make partition as aforeſaid.

Child having equal ſhare by ſettlement, to have no ſhare of the ſurpluſage.

Provided always, That no child of any inteſtate having ſo much land by ſettlement from the ſaid inteſtate, as by the ſaid court's computation of the value thereof, ſhall be equal to the ſhare or purport of the inteſtate's lands, which by this act, are to be allotted to any of the other children in manner aforeſaid; then ſuch child ſo provided for, ſhall have no ſhare of the ſaid ſurpluſage of the inteſtate's other lands.

If the ſettlement does not amount to an equal ſhare, it ſhall be made equal.

But if the value of the lands ſo ſettled by the inteſtate, ſhall not, by the computation aforeſaid, amount to an equal ſhare, then the ſaid court ſhall allot to the party ſo much of the ſaid land as ſhall make the ſhares or eſtates of all the ſaid children equal, as near as can be eſtimated, the eldeſt ſon having a double ſhare as aforeſaid.

Widows of inteſtates ſhall hold a third part of the lands, &c.

Provided alſo, That the widows of inteſtates having lands and tenements in this government, ſhall hold and enjoy the full third part of all the lands and tenements of the inteſtate within this government as her dower, whereof her huſband died ſeized, which dower ſhe ſhall hold as tenants in dower do in England; and the profitable lands or tenements, and the unimproved or rough lands next adjacent thereto, ſhall not be ſold but for payment of the inteſtate's debts.

Provided alſo, That no partition of the lands or tenements

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nements which are to be divided by this act, ſhall be made by or for the younger children of the inteſtate, if the heir at law will, within the ſpace of twelve months, pay ſo much money, or other effects, to the perſon or perſons demanding ſuch partition, as their reſpective ſhares or purports ſhall amount unto, by the valuation of four or more perſons indifferently choſen by both parties, or by an inqueſt appointed by the Orphans Court, to value the ſame, where the parties cannot otherwiſe agree. And the perſon or perſons (whether minors or others) to whom or for whoſe uſe payment or ſatisfaction ſhall be made for their reſpective purports, by the heir at law, in manner aforeſaid, ſhall be for ever debarred of all the right, title and demand which he or they can or may have, of, in or to ſuch ſhare or purports, by virtue of this act, but the ſame ſhall be held and enjoyed by the heir at law, as freely and fully as the inteſtate held the ſame.

No partition to be made, if the heir at law will pay the value of ſhares in money, &c.

And in caſe the inteſtate have no known kindred but a wife, then all his lands, tenements and hereditaments, ſhall deſcend to his ſaid wife, during her natural life; and after the death of the ſaid wife, then all his lands, tenements and hereditaments, ſhall eſcheat or go to the immediate landlord of whom ſuch lands are held, his heirs and aſſigns: And all the goods, chattels and perſonal eſtate whatſoever, of ſuch perſons dying inteſtate, and without wife or kindred as aforeſaid, ſhall go to the Governor or Commander in Chief for the time being.

If the inteſtate have no known kindred but a wife, the lands, &c. to be hers during life, and afterwards eſcheated, &c.

Perſonal eſtate goes to the Governor;

But if any of the ſaid inteſtate's relations ſhall appear, and make their claims to ſuch inteſtate's perſonal eſtate, within ſeven years after the deceaſe of the inteſtate, they ſhall be reſtored thereunto.

But ſhall be reſtored if relations appear in ſeven years.

And if the lawful heir to any ſuch lands or tenements, ſhall at any time within twenty-one years after the inteſtate's deceaſe, appear, he may traverſe the inquiſition, or office, found for the lands ſo eſcheated, and recover the ſame, paying the lord or perſon in poſſeſſion for the improvements made thereupon, according to the valuation of twelve men.

If an heir at law appear in twenty-one years, he ſhall recover the eſcheated lands, &c.

And for the leſſening the charge of dividing the lands of inteſtates amongſt their children, *Be it enacted by the authority aforeſaid*, That the Juſtices of the Orphans

Diviſion of lands to be made by five men, &c.

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phans Court, of the county where the lands lie, upon application made to them by the heir at law, or any other child, when he or ſhe ſhall attain to the age of twenty-one years, ſhall, and are hereby empowered, to appoint five honeſt and diſcreet men of the county, upon their oaths or affirmations, to go upon the lands of the inteſtate, and to divide the ſame equally amongſt the children of the inteſtate, according to the directions and true intent and meaning of this act; which ſaid five men, or any three of them, agreeing, ſhall make return of ſuch diviſion to the next Orphans Court; and if ſuch diviſion be approved of by the ſaid court, the ſame ſhall remain firm and ſtable for ever.

Return to be made of the diviſion to the Orphans Court, &c.

Provided always, That ſuch diviſion ſhall not debar the eldeſt ſon from making a purchaſe of the ſhare or purport of his brothers and ſiſters, in the manner directed in this act.

And that an act, entitled, *An act for the ſettling inteſtates eſtates*, and directing the deſcent of lands of perſons dying inteſtate, having lands in this government, made in the year of our Lord One Thouſand Seven Hundred and Six, ſhall be, and is hereby repealed.

Repeal of a former act.

See before chap. 15. a.

Paſſed October—1721.

CHAP. CI. a.

1742.

An ACT *for the better ſettling inteſtates eſtates.*

Repealed and ſupplied in chap. 119. a. 24 Geo. II.

BE *it enacted by the honourable George Thomas, eſq. with his Majeſty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Caſtle, Kent and Suſſex upon Delaware, and province of Pennſylvania, under the honourable John Penn, Thomas Penn and Richard Penn, eſqrs. true and abſolute proprietaries of the counties and province aforeſaid, by and with the advice and conſent of the Repreſentatives of the freemen of the ſaid counties in General Aſſembly met, and by the authority of the ſame*, That the Regiſters of the ſeveral counties

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counties of this government, having power to grant letters of adminiſtration unto the widow or next of kin to the inteſtate, and upon their or either of their refuſal to the principal creditor or creditors of the ſaid inteſtate, as the Regiſter for the probate of wills and teſtaments, and granting letters of adminiſtration within the counties aforeſaid, ſhall think meet and convenient; and the ſaid Regiſters ſhall thereupon take bond in the name of the Governor for the time being, with one or more ſufficient ſureties, in manner and form following, *mutatis mutandis*, viz.

Form of the bond.

THE condition of this obligation is ſuch, that if the above bounden A. B. *adminiſtrator of all and ſingular the goods and chattels, rights and credits of* C. D. *deceaſed, do make or cauſe to be made a true and perfect inventory of all and ſingular the ſaid goods and chattels, rights and credits of the ſaid deceaſed, which have or ſhall come to the hands, poſſeſſion or knowledge of the ſaid* A. B. *or unto the hands and poſſeſſion of any other perſon or perſons for him; and the ſame ſo made, do exhibit or cauſe to be exhibited unto the Regiſter's Office of the county at or before the day of next enſuing; and the ſame goods and chattels, rights and credits of the ſaid deceaſed at the time of his death, or which at any time after ſhall come to the hands or poſſeſſion of the ſaid* A. B. *or into the hands and poſſeſſion of any other perſon or perſons for him, do well and truly adminiſter according to law; and further, do make or cauſe to be made a true and juſt account of his adminiſtration at or before day of and all the reſt and reſidue of the ſaid goods and chattels, rights and credits which ſhall be found remaining upon the ſaid adminiſtrator's account, the ſame being firſt examined and allowed of by the Orphans Court of the county where the ſaid adminiſtration is granted, ſhall deliver and pay unto ſuch perſon or perſons reſpectively, as the ſaid Orphans Court in the reſpective counties, by their decree or ſentence purſuant to the true intent and meaning of this act, ſhall limit and appoint: And if it ſhall hereafter appear that any laſt will and teſtament was made by the ſaid deceaſed, and the executor or executors therein named, do exhibit the ſame into the Regiſter's Office, making requeſt to have it allowed and approved accordingly: If the ſaid* A. B. *within bounden, being thereunto required, do ſurrender*

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render and deliver up the ſaid letters of adminiſtration (approbation of ſuch teſtament being firſt had and made in the ſaid Regiſter's Office;) then this obligation to be void and of none effect, or elſe to remain in full force and virtue.

Which bonds are hereby declared and enacted to be good, to all intents and purpoſes, and pleadable in any court of juſtice within this government. And alſo that the ſaid Orphans Courts in the reſpective counties of this government, ſhall and may, and are hereby enabled to proceed, and call ſuch adminiſtrator or adminiſtrators to account for, and touching the goods and chattels of any perſon dying inteſtate; and upon the hearing and due conſidering thereof (the deceaſed's juſt debts and funeral expences being firſt paid and allowed) the ſaid Orphans Court ſhall and are hereby fully impowered to order and make a juſt diſtribution of the ſurpluſage or remaining part of the perſonal eſtate of the deceaſed, in manner and form following, *That is to ſay*, One third part of the ſaid perſonal eſtate to the wife of the ſaid inteſtate for ever, beſides her right of dower, or thirds in and to the lands, tenements and hereditaments of the deceaſed's perſonal eſtate during her natural life, where ſuch wife ſhall not be otherwiſe provided for by marriage ſettlement; and the reſidue of the deceaſed's perſonal eſtate ſhall be diſtributed by equal portions to and among the children of the ſaid deceaſed, and ſuch as ſhall legally repreſent them, if any of them be dead (other than ſuch child or children who ſhall have any eſtate by ſettlement of the inteſtate, or ſhall be advanced by him in his lifetime by portion or portions equal to the ſhare which ſhall by ſuch diſtributions be allowed to the other children) to whom ſuch diſtributions are to be made.

Orphans Court to make diſtribution, &c.

Manner of diſtribution of perſonal eſtates.

And in caſe any child or children who ſhall have any eſtate by ſettlement from the inteſtate, or ſhall be advanced by the ſaid inteſtate in his lifetime by portion or portions not equal to the ſhare which will be due to the other children by ſuch diſtribution as aforeſaid; then ſo much of the ſurpluſage of the eſtate of ſuch inteſtate, ſhall be diſtributed to ſuch child or children as ſhall have any eſtate by ſettlement from the inteſtate, or were advanced in the life time of the inteſtate, ſo

Caſe of children that have been advanced in the inteſtate's life time.

as

as ſhall make the eſtate of all the ſaid children to be equal, as near as can be eſtimated. A. D. 1742.

And in caſe there be no children, nor any legal repreſentatives of them, then one moiety of the ſaid eſtate to be allotted to the wife of the inteſtate, and the reſidue of the ſaid eſtate to be diſtributed equally to every of the next of kin to the inteſtate, who are in equal degree, or to thoſe who legally repreſent them. Where there are no children, the widow to have one moiety, &c.

Provided always, That there be no repreſentatives admitted amongſt collaterals (after brother's and ſiſter's children.)

And in caſe there be no wife, then the ſaid eſtate to be diſtributed equally to and amongſt the children of the deceaſed, and their legal repreſentatives as aforeſaid. Where no wife, the eſtate goes to the children. &c.

And in caſe there be no children, then to the next of kindred in equal degree of or unto the inteſtate, and their legal repreſentatives as aforeſaid, and in no other manner whatſoever.

Provided alſo, And to the end that a due regard be had to the creditors of the ſaid inteſtate, that no ſuch diſtribution of the goods and chattels of any perſon dying inteſtate, ſhall be made as aforeſaid, until one year be expired after the inteſtate's death; and that every one to whom any diſtribution or ſhare of the ſaid eſtate ſhall be allotted, ſhall give bond, with ſufficient ſureties, to the Orphans Court, in the name of the Governor for the time being, that, if any debt or debts truly owing by the inteſtate, ſhall be afterwards ſued for and recovered, or otherwiſe duly be made appear, that then, and in every ſuch caſe, he, ſhe or they ſhall reſpectively refund and pay back to the adminiſtrator or adminiſtrators, his, her or their rateable part of the ſaid debt or debts, and coſts of ſuit and charges of the ſaid adminiſtrator or adminiſtrators by reaſon of ſuch debt or debts, out of the parts or ſhare ſo as aforeſaid allotted to him, her or them, thereby to enable the ſaid adminiſtrator or adminiſtrators to pay and ſatisfy the ſaid debt or debts ſo recovered or made to appear after the diſtribution made as aforeſaid. No diſtribution to be made till after one year, &c.

And be it further enacted by the authority aforeſaid, That if any perſon or perſons ſhall die inteſtate, being own-

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ers of lands and tenements within this government at the time of his or her death, and who ſhall not have diſpoſed of the ſame in his or her lifetime by will in writing or otherwiſe, that then all and every ſuch lands, tenements and hereditaments ſhall be ſubject to a diviſion, and be alike diſtributed, according to the rules herein after expreſſed, *That is to ſay*, One third part of the ſaid real eſtate to the widow of the ſaid inteſtate during her natural life, where ſuch widow ſhall not be otherwiſe provided for by marriage ſettlement; and the reſidue of the ſaid deceaſed's real or landed eſtate ſhall be diſtributed by equal portions to and amongſt the children of the ſaid deceaſed, and ſuch as ſhall legally repreſent them (if any of them be dead) other than ſuch child or children who ſhall have any real or landed eſtate by ſettlement, or ſhall be advanced by the ſaid deceaſed in his or her lifetime by portion or part of ſuch real eſtate, equal to the ſhare which ſhall by ſuch diſtribution be allotted to the other children, to whom ſuch diſtributions are to be made. And in caſe any child or children who ſhall have any real eſtate by ſuch ſettlement from the inteſtate, or ſhall be advanced by the ſaid inteſtate in his lifetime by part or portion not equal to the ſhare which ſhall be allotted to the other children by ſuch diſtribution as aforeſaid, then ſo much of the ſurpluſage of the real eſtate of ſuch inteſtate ſhall be diſtributed to ſuch child or children as ſhall have any ſuch ſettlement from the inteſtate, or were advanced in the lifetime of the inteſtate, as ſhall make the real eſtate of all the ſaid children to be equal as near as can be eſtimated; except the eldeſt ſon, or his lawful iſſue (if any be) who ſhall have two ſhares, or a double portion of the whole of the real eſtate of his, her or their anceſtors: And where there are no ſons, the daughters ſhall inherit as co-partner in the diviſion of the inteſtate's lands, tenements and hereditaments.

Manner of diſtribution of inteſtates lands.

Children to ſhare equally, except the eldeſt ſon, who ſhall have two ſhares.

And be it further enacted by the authority aforeſaid, That the ſaid diviſion ſhall be made by five ſufficient freeholders, or any three of them, to be appointed by the Orphans Court, and ſworn or affirmed by the ſaid court for that end and purpoſe; unleſs where all the parties intereſted in any ſuch lands, tenements and hereditaments,

To be divided by five men, unleſs, &c.

reditaments, being legally capable to act, ſhall agree of and make diviſion among themſelves, and mutually give each other releaſes in writings under their hands and ſeals, which ſaid releaſes ſhall be allowed and accounted valid in law, being firſt acknowledged by the parties ſubſcribing the ſame in open Court of Common Pleas for the aforeſaid reſpective counties, and duly enrolled. A. D. 1742.

Provided neverthelefs, That where any eſtate in lands, tenements and hereditaments cannot be divided amongſt all the children of the inteſtate, without prejudice to or ſpoiling of the whole, the ſame being ſo repreſented and made to appear to the Orphans Court of the county where the ſaid lands or tenements lay; then the ſaid court may order the whole unto the eldeſt ſon, if he accept it, or to any other of the ſons ſucceſſively, upon the eldeſt ſon's refuſal, he or they paying to the other children of the deceaſed, their equal or proportionable parts or ſhares of the true value of ſuch lands, tenements and hereditaments, as upon a juſt appraiſement thereof, to be made by three ſufficient freeholders to be appointed by the Orphans Court and qualified as aforeſaid, or giving good ſecurity to pay the ſame in ſome reaſonable time as the ſaid Orphans Court ſhall limit and appoint: And the perſon or perſons, whether minors or others, to whom, or for whoſe uſe, payment or ſatisfaction ſhall be made for their reſpective parts or ſhares of the deceaſed's lands by the heir at law or others, in manner aforeſaid, and ſhall be for ever debarred of all the right, title and demand, which he or they can or may have of, in or to ſuch ſhare or part by virtue of this act; and the ſame ſhall be held and enjoyed by the heir at law, or other purchaſer, as freely and fully as the inteſtate held the ſame. Where lands cannot be divided, the eldeſt ſon to have the whole, &c.

And if any of the children happen to die before he or ſhe come to age or be married, the portion of ſuch child or children ſhall be equally divided amongſt the ſurviving brothers and ſiſters, or their legal repreſentatives.

And in caſe there be no children, nor any legal repreſentatives of them, then one moiety of the inteſtate's lands, tenements and hereditaments, ſhall be allotted to the widow of ſuch inteſtate, during her natural Where no children, who to inherit the lands, &c.

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natural life; and the reſidue of the deceaſed's real eſtate ſhall be equally divided to every of the next of kin of the inteſtate in equal degree, and to thoſe who legally repreſent them; no repreſentatives to be admitted amongſt collaterals after brother's and ſiſter's children.

Where no wife, &c.

And if there be no wife, the ſame ſhall be diſtributed amongſt the children; and if no children, to the next of kin to the inteſtate in equal degree, and their legal repreſentatives as aforeſaid, and in no other manner whatſoever.

And every one to whom any ſuch diſtribution or ſhare ſhall be allotted, ſhall give bond with ſureties in the ſaid Orphans Court (if required) that if any debts afterwards be made to appear againſt the deceaſed, to refund and pay back to the adminiſtrator his or her rateable part of that debt or debts, and of the coſts of ſuits and charges of the ſaid adminiſtrator by reaſon of ſuch debts, out of the part or ſhare ſo as aforeſaid allotted to him or her, thereby to enable the ſaid adminiſtrator to pay and ſatisfy the ſaid debts ſo recovered, after the diſtribution made as aforeſaid. And that the widow's part or portion in the real eſtate of the deceaſed, ſhall at the expiration of her term, be alike divided as aforeſaid: Saving to any perſon aggrieved, at any order, ſentence or decree of the Orphans Court, made for the ſettlement and diſtribution of any inteſtate's eſtates, their right of appeal unto the Supreme Court of this government, to be held for each county reſpectively; every perſon ſo appealing, giving ſecurity to proſecute the ſaid appeal with effect.

Widow's part to be alſo divided, &c.

Perſonal eſtate not being ſufficient to pay debts, &c. lands may be ſold;

And be it further enacted by the authority aforeſaid, That if any perſon or perſons dying inteſtate, being owners of lands and tenements within this government at the time of their death, and leave lawful iſſue to ſurvive them, but not a ſufficient perſonal eſtate to pay their juſt debts, and maintain their children; then and in ſuch caſe it ſhall be lawful for the adminiſtrator or adminiſtrators of ſuch decedents, to ſell and convey ſuch part or parts of the ſaid lands or tenements for defraying their juſt debts, maintenance of their children, and putting them apprentices, and teaching them

to

to read and write; and for the improvement of the reſidue of the eſtate (if any be) to their advantage, as the Orphans Court of the counties where ſuch eſtate lies, ſhall think fit to allow, order, and from time to time direct. A. D. 1742.

Provided always, That no lands and tenements contained in any marriage ſettlement, ſhall by virtue of this act be ſold or diſpoſed of contrary to the form and effect of ſuch ſettlement; nor ſhall any Orphans Court allow or order any inteſtate's lands and tenements to be ſold before adminiſtrators requeſting the ſame do exhibit one or more true and perfect inventory or inventories, and conſcionable appraiſement of all the inteſtate's perſonal eſtate whatſoever, and alſo a true and juſt account, upon his or her ſolemn oath or affirmation, of all the inteſtate's debts which ſhall be then come to his or her knowledge. And if thereupon it ſhall appear to the court, that the inteſtates's perſonal eſtate will not be ſufficient to pay the debts, and maintain the children, until the eldeſt of them attains to the age of twenty-one years, or to put them out to be apprentices and teach them to read and write; then and in every ſuch caſe, and not otherwiſe, the court ſhall allow ſuch adminiſtrators to make public ſale of ſo much of the ſaid lands, as the court, upon the beſt computation they can make of the value thereof, ſhall adjudge neceſſary for the purpoſes aforeſaid, reſerving the manſion houſe, and moſt profitable part of the eſtate, till the laſt. But before any ſuch ſale be made, the court ſhall order ſo many writings to be made by the Clerk, upon good paper, as the court ſhall think fit, to ſignify and give notice of ſuch ſale, and of the day and place where the ſaid ſale will be, and what lands are to be ſold, and where they lie; which notices ſhall be by the adminiſtrator or adminiſtrators affixed in three of the moſt public places of the county and in the hundred where the land lies, at leaſt twenty days before the ſaid ſale is to begin; and the adminiſtrator that makes ſuch ſale, ſhall bring his or her proceedings therein to the next Orphans Court after the ſale made; and if it ſhould happen that any lands be ſold, by virtue of this act, for more than the court's computation of the

Except lands contained in marriage ſettlements.

Proceedings in ſale of lands directed.

value

A. D. 1742.

value thereof, then the adminiſtrator or adminiſtrators ſhall be accountable for the ſurpluſage of the ſame, to be paid and divided as by this act is before required and directed in reſpect of the inteſtate's perſonal eſtate.

Surpluſage upon ſale, to be divided.

And be it further enacted by the authority aforeſaid, That the ſurpluſage and remaining parts of the inteſtate's lands, tenements and hereditaments, not ſold nor ordered to be ſold by virtue of this act, and not otherwiſe limited by marriage ſettlement, ſhall be divided, as aforeſaid, between the inteſtate's children, or the ſurvivors of them, or their repreſentatives, as aforeſaid.

If the inteſtate have no known kindred but a wife, the land to be hers during life.

And in caſe the inteſtate have no known kindred, but a wife, then all his lands, tenements and hereditaments ſhall deſcend to his ſaid wife during her natural life, and after the death of the ſaid wife, then all the ſaid lands, tenements and hereditaments ſhall eſcheat or go to the immediate landlord of whom ſuch lands, tenements and hereditaments are held, his heirs and aſſigns; and all the goods, chattels and perſonal eſtate whatſoever, of ſuch perſons dying inteſtate and without wife or kindred as aforeſaid, ſhall go to the Governor or Commander in Chief for the time being. But if any of the ſaid inteſtate's relations ſhall appear, and make their claim or claims to ſuch inteſtate's perſonal eſtate within ſeven years after the deceaſe of the inteſtate, they ſhall be reſtored thereunto.

Perſonal eſtate goes to the Governor; but ſhall be reſtored if relations appear in ſeven years.

If an heir at law appear in twenty-one years, he may recover the eſcheated lands.

And if the lawful heir to any ſuch lands or tenements ſhall at any time within twenty-one years after the inteſtate's deceaſe appear, he may traverſe the inquiſition, or office found for the lands ſo eſcheated, and recover the ſame, paying the lord or perſon in poſſeſſion for the improvements thereupon, according to the valuation of a jury of twelve men, to be appointed by the Court of Common Pleas for that county in which the ſaid lands and tenements lie.

Provided always, and be it further enacted by the authority aforeſaid, That in all caſes where the Regiſter hath uſed heretofore to grant letters of adminiſtration with teſtament annexed, he ſhall continue ſo to do; and the will of the deceaſed in ſuch teſtament expreſſed, ſhall be performed and obſerved in ſuch manner

ner as it ſhould have been as if this act had never been made. A. D. 1742.

And for leſſening the charge of dividing the lands of inteſtates amongſt their children, *Be it enacted by the authority aforeſaid*, That the Juſtices of the Orphans Court of the county where the lands lie, upon application made to them by the heir at law or any other child, when he, ſhe or they ſhall attain to the age of twenty-one years, ſhall and are hereby impowered to appoint five ſufficient freeholders of the county, who, upon their oaths or affirmation, ſhall take with them a ſkilful Surveyor, and go upon the lands of the inteſtate, and divide the ſame equally amongſt the children or other heirs of the inteſtate, according to the directions and true intent and meaning of this act; which ſaid five perſons, or any three of them agreeing, ſhall make return of ſuch diviſion to the next Orphans Court; and if ſuch diviſion be approved of by the ſaid court, the ſame ſhall remain firm and ſtable for ever. Diviſion of lands to be made by five men, &c.

Provided always, That ſuch diviſion ſhall not debar the eldeſt ſon, or others as aforeſaid, for making a purchaſe of the ſhare and parts of his brothers and ſiſters, in the manner before directed by this act.

And be it further enacted by the authority aforeſaid, That all laws or acts of Aſſembly heretofore made in this government for the ſettling inteſtates eſtates, and directing the deſcent of lands of perſons dying inteſtate, and every matter, clauſe and thing therein contained, ſhall be and are hereby declared to be repealed, made null and void; any thing in the ſaid acts, or any of them, to the contrary in any wiſe notwithſtanding. Repeal of former laws.

Provided nevertheleſs, and be it further enacted by the authority aforeſaid, That all ſettlements and diviſions of any inteſtates eſtates, either real or perſonal, heretofore made purſuant to any former laws of this government, are hereby ratified, confirmed and approved of.

Paſſed November 4, 1742.

CHAP.

A. D. 1760.

CHAP. CLXXII. a.

A Supplement to an act, intituled, An act to encourage the building of good mills within this government.

WHEREAS an act, intituled, *An act to encourage the building of good mills within this government,* has not been found to answer all the good purposes intended by the same; *Be it therefore enacted by the honourable James Hamilton, esq. with his Majesty's royal approbation, Lieutenant Governor and Commander in Chief of the counties of New-Castle, Kent and Sussex, upon Delaware, and province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties in General Assembly met, and by the authority of the same,* That whenever freeholders are or shall be appointed, in pursuance of the act aforesaid, to determine the value of any lands, they shall, upon their oaths and affirmations respectively, by their verdict to be thereupon given, before valuing the lands for the purposes therein mentioned, make a return to the justices summoning them of the damage or loss that any person or persons, who has, or have, a mill or mills, either above or below the place, where the person applying to the said justices has a mill, or intends to build one, may receive by taking the water out of the river, creek or run, above the mill of such person or persons, and bringing it past the same in a race, or by any obstruction or impediment caused by the back water of any person so applying to the said justices, and the said verdict being returned to the next County Court, the court shall thereupon adjudge and determine, on hearing the proofs and allegations of both parties, whether it is proper a mill should be built according to the request of the person applying to the said justices as aforesaid; and if the court shall be satisfied that the same may be built, without doing too great injury to the mills already built, they may confirm the said return, which shall create a debt upon the estate of the person applying for the condemnation of land as aforesaid, in the same manner as by the said act in other cases is provided and ordained.

The freeholders appointed to value lands, &c. to be condemned for a mill, shall in their verdict return what damage the new mill may be to the water of any other mill, &c.

Return to be made to the next County Court, who may approve or reject the same.

And

A. D. 1760.

Any perſon erecting a mill-dam, &c. to the injury of another mill, ſhall pay ſuch damages as a jury ſhall aſſeſs to the owner thereof.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That if any owner or owners of a mill, within this government, ſhall be injured as aforeſaid by any mill-race, mill-dam, or mill-pond, to be hereafter made, either where a verdict of a valuation ſhall be made in purſuance of this act, or the act aforeſaid, or where any perſon ſhall make ſuch race, dam, or pond, upon his own land, then, upon the application of ſuch owner or owners ſo injured to the County Court of Common Pleas, ſetting forth the ſame, the juſtices of the ſaid court ſhall iſſue a writ to the Sheriff of the county, commanding him to ſummon a jury of twelve men to go and view the premiſes, and then to appear before the ſaid juſtices at the next County Court, when and where they ſhall, upon their oaths and affirmations reſpectively, after hearing the proofs and allegations of the parties, by their verdict, ſay and determine what damages or loſs the perſon or perſons ſo injured has or have ſuſtained by reaſon or means of the ſaid race, dam, or pond: And upon ſuch verdict, ſo to be given, the juſtices of the ſaid court ſhall iſſue an execution, to the Sheriff of the ſaid county directed, to levy the value of the damages or loſs in the ſaid verdict mentioned, with the coſts of the ſaid proceeding, of the lands and tenements, goods and chattels, of the perſon or perſons, for the uſe of whoſe mill or mills the ſaid race, dam or pond was made, and pay the ſame to the perſon or perſons injured, as aforeſaid.

The jury may determine whether any new erected mill-dam, &c. ſhall continue, or be pulled down, &c.

SECT. 3. *But* if the ſaid jury ſhall be of opinion that the race, dam or pond, made as aforeſaid, is ſo injurious to any mill above or below it, that ſuch race, dam or pond, ought not to continue, they ſhall by their verdict ſay ſo: And thereupon the juſtices of the ſaid court ſhall adjudge and decree, that the erecter, or maker, of any ſuch dam, or race, ſhall pull down ſuch dam, or ſtop up ſuch race, as the caſe may require, ſo that the water may flow freely in the ſame courſe that it might or could have done before the erecting or making ſuch dam or race. And if the erecter or maker of ſuch dam or race will not comply with ſuch judgment or decree, the ſaid court may, and are hereby required, to enforce obedience

A. D. 1760. to the ſame by impriſoning the perſon or perſons ſo refuſing or neglecting to comply therewith.

Paſſed October—1760.

DECLARATION OF INDEPENDENCE.

A. D. 1776.

In CONGRESS, July 4, 1776.

The unanimous Declaration of the Thirteen United States of America.

WHEN, in the courſe of human events, it becomes neceſſary for one people to diſſolve the political bands which have connected them with another, and to aſſume, among the powers of the earth, the ſeparate and equal ſtation to which the laws of nature and of nature's God entitle them, a decent reſpect to the opinions of mankind requires that they ſhould declare the cauſes which impel them to the ſeparation.

We hold theſe truths to be ſelf-evident, that all men are created equal, that they are endowed, by their Creator, with certain unalienable rights, that among theſe are life, liberty and the purſuit of happineſs.—That to ſecure theſe rights, governments are inſtituted among men, deriving their juſt powers from the conſent of the governed, that whenever any form of government becomes deſtructive of theſe ends, it is the right of the people to alter or to aboliſh it, and to inſtitute new government, laying its foundation on ſuch principles, and organizing its powers in ſuch form, as to them ſhall ſeem moſt likely to effect their ſafety and happineſs. Prudence, indeed, will dictate, that governments long eſtabliſhed, ſhould not be changed for light and tranſient cauſes; and accordingly all experience hath ſhewn, that mankind are more diſpoſed to ſuffer, while evils are ſufferable, than to right themſelves by aboliſhing the forms to which they are accuſtomed. But when a long train of abuſes and uſurpations, purſuing invariably the ſame object,

evinces

evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former system of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world. A. D. 1776.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass laws of immediate and pressing importance, unless suspended in their operation 'till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the Legislature, a right inestimable to them, and formidable to tyrants only.

He has called together Legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the mean time, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice,

by

A. D. 1776. by refuſing his aſſent to laws for eſtabliſhing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their ſalaries.

He has erected a multitude of new offices, and ſent hither ſwarms of officers to harraſs our people, and eat out their ſubſtance.

He has kept among us, in times of peace, ſtanding armies, without the conſent of our Legiſlatures.

He has affected to render the military independent of and ſuperior to the civil power.

He has combined with others to ſubject us to a juriſdiction foreign to our conſtitution, and unacknowledged by our laws; giving his aſſent to their acts of pretended legiſlation,

For quartering large bodies of armed troops among us:

For protecting them by a mock trial, from puniſhment for any murders which they ſhould commit on the inhabitants of theſe ſtates:

For cutting off our trade with all parts of the world:

For impoſing taxes on us without our conſent:

For depriving us, in many caſes, of the benefits of trial by jury:

For tranſporting us beyond ſeas to be tried for pretended offences:

For aboliſhing the free ſyſtem of Engliſh laws in a neighbouring province, eſtabliſhing therein an arbitrary government, and enlarging its boundaries, ſo as to render it at once an example and fit inſtrument for introducing the ſame abſolute rule into theſe colonies:

For taking away our charters, aboliſhing our moſt valuable laws, and altering fundamentally the forms of our governments:

For ſuſpending our own Legiſlatures, and declaring themſelves inveſted with power to legiſlate for us in all caſes whatſoever.

He has abdicated government here, by declaring us out of his protection and waging war againſt us.

He

A. D. 1776.

He has plundered our ſeas, ravaged our coaſts, burnt our towns, and deſtroyed the lives of our people.

He is at this time, tranſporting large armies of foreign mercenaries to complete the works of death, deſolation and tyranny, already begun with circumſtances of cruelty and perfidy, ſcarcely parallelled in the moſt barbarous ages, and totally unworthy the head of a civilized nation.

He has conſtrained our fellow citizens, taken captive on the high ſeas, to bear arms againſt their country, to become the executioners of their friends and brethren, or to fall themſelves by their hands.

He has excited domeſtic inſurrections amongſt us, and has endeavoured to bring on the inhabitants of our frontiers, the mercileſs Indian ſavages, whoſe known rule of warfare, is an undiſtinguiſhed deſtruction, of all ages, ſexes and conditions.

In every ſtage of theſe oppreſſions, we have petitioned for redreſs in the moſt humble terms: Our repeated petitions have been anſwered only by repeated injury. A Prince, whoſe character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our Britiſh brethren. We have warned them from time to time of attempts by their Legiſlature to extend an unwarrantable juriſdiction over us. We have reminded them of the circumſtances of our emigration and ſettlement here. We have appealed to their native juſtice and magnanimity, and we have conjured them by the ties of our common kindred to diſavow theſe uſurpations, which would inevitably interrupt our connexion and correſpondence. They, too, have been deaf to the voice of juſtice and of conſanguinity. We muſt, therefore, acquieſce in the neceſſity, which denounces our ſeparation, and hold them as we hold the reſt of mankind, enemies in war, in peace friends.

We, therefore, the Repreſentatives of the United States of America, in General Congreſs aſſembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by

authority

A. D. 1776.

authority of the good people of theſe colonies, ſolemnly publiſh and declare, That theſe United Colonies are, and of right ought to be, *free and independent ſtates*; that they are abſolved from all allegiance to the Britiſh crown, and that all political connexion between them and the ſtate of Great Britain is, and ought to be, totally diſſolved; and that as *free and independent ſtates*, they have full power to levy war, conclude peace, contract alliances, eſtabliſh commerce, and to do all other acts and things which *independent ſtates* may of right do. And for the ſupport of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our ſacred honour.

JOHN HANCOCK.

New-Hampſhire.
Joſiah Bartlett,
William Whipple,
Matthew Thornton.

Maſſachuſetts Bay.
Samuel Adams,
John Adams,
Robert Treat Paine,
Elbridge Gerry.

Rhode Iſland & Providence, &c.
Stephen Hopkins,
William Ellery.

Connecticut.
Roger Sherman,
Samuel Huntington,
William Williams,
Oliver Wolcott.

New-York.
William Floyd,
Philip Livingſton,
Francis Lewis,
Lewis Morris.

New-Jerſey.
Richard Stockton,
John Witherſpoon,
Francis Hopkinſon,
John Hart,
Abraham Clark.

Pennſylvania.
Robert Morris,
Benjamin Ruſh,
Benjamin Franklin,
John Morton,
George Clymer,
James Smith,
George Taylor,
James Wilſon,
George Roſs.

Delaware.
Cæſar Rodney,
George Read.

Maryland.
Samuel Chaſe,
William Paca,
Thomas

Thomas Stone,
Charles Carroll, of Carollton.

Virginia.
George Wythe,
Richard Henry Lee,
Thomas Jefferſon,
Benjamin Harriſon,
Thomas Nelſon, jun.
Francis Lightfoot Lee,
Carter Braxton.

North-Carolina.
William Hooper,
Joſeph Hewes,
John Penn.

South-Carolina.
Edward Rutledge,
Thomas Hayward, jun.
Thomas Lynch, jun.
Arthur Middleton.

Georgia.
Button Gwinnett,
Lyman Hall,
George Walton.

A. D. 1776.

A Declaration of Rights and Fundamental Rules of the Delaware State, formerly ſtiled, The Government of the counties of New-Caſtle, Kent and Suſſex, upon Delaware.

September 11, 1776.

SECTION 1. THAT all government of right originates from the people, is founded in compact only, and inſtituted ſolely for the good of the whole.

SECT. 2. That all men have a natural and unalienable right to worſhip Almighty God according to the dictates of their own conſciences and underſtandings; and that no man ought or of right can be compelled to attend any religious worſhip or maintain any miniſtry contrary to or againſt his own free will and conſent, and that no authority can or ought to be veſted in, or aſſumed by any power whatever that ſhall in any caſe interfere with, or in any manner controul the right of conſcience in the free exerciſe of religious worſhip.

SECT. 3. That all perſons profeſſing the Chriſtian religion ought forever to enjoy equal rights and privileges in this ſtate, unleſs, under colour of religion, any man diſturb the peace, the happineſs or ſafety of ſociety.

SECT. 4. That the people of this ſtate have the ſole excluſive and inherent right of governing and regulating the internal police of the ſame.

SECT. 5. That perſons intruſted with the Legiſlative and

A. D. 1776.

and Executive Powers are the Truſtees and Servants of the public, and as ſuch accountable for their conduct; wherefore whenever the ends of government are perverted, and public liberty manifeſtly endangered by the Legiſlative ſingly, or a treacherous combination of both, the people may, and of right ought to eſtabliſh a new, or reform the old government.

SECT. 6. That the right in the people to participate in the Legiſlature, is the foundation of liberty and of all free government, and for this end all elections ought to be free and frequent, and every freeman, having ſufficient evidence of a permanent common intereſt with, and attachment to the community, hath a right of ſuffrage.

SECT. 7. That no power of ſuſpending laws, or the execution of laws, ought to be exerciſed unleſs by the Legiſlature.

SECT. 8. That for redreſs of grievances, and for amending and ſtrengthening of the laws, the Legiſlature ought to be frequently convened.

SECT. 9. That every man hath aright to petition the Legiſlature for the redreſs of grievances in a peaceable and orderly manner.

SECT. 10. That every member of ſociety hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expenſe of that protection, and yield his perſonal ſervice when neceſſary, or an equivalent thereto; but no part of a man's property can be juſtly taken from him or applied to public uſes without his own conſent or that of his legal Repreſentatives: Nor can any man that is conſcientiouſly ſcrupulous of bearing arms in any caſe be juſtly compelled thereto if he will pay ſuch equivalent.

SECT. 11. That retroſpective laws, puniſhing offences committed before the exiſtence of ſuch laws, are oppreſſive and unjuſt, and ought not to be made.

SECT. 12. That every freeman for every injury done him in his goods, lands or perſon, by any other perſon, ought to have remedy by the courſe of the law of the land, and ought to have juſtice and right for the injury done to him freely without ſale, fully without any

denial,

denial, and ſpeedily without delay, according to the law of the land. A. D. 1776.

SECT. 13. That trial by jury of facts where they ariſe is one of the greateſt ſecurities of the lives, liberties and eſtates of the people.

SECT. 14. That in all proſecutions for criminal offences, every man hath a right to be informed of the accuſation againſt him, to be allowed counſel, to be confronted with the accuſers or witneſſes, to examine evidence on oath in his favour, and to a ſpeedy trial by an impartial jury, without whoſe unanimous conſent he ought not to be found guilty.

SECT. 15. That no man in the Courts of Common Law ought to be compelled to give evidence againſt himſelf.

SECT. 16. That exceſſive bail ought not to be required, nor exceſſive fines impoſed, nor cruel or unuſual puniſhments inflicted.

SECT. 17. That all warrants without oath to ſearch ſuſpected places, or to ſeize any perſon or his property, are grievous and oppreſſive; and all general warrants to ſearch ſuſpected places, or to apprehend all perſons ſuſpected, without naming or deſcribing the place or any perſon in ſpecial, are illegal and ought not to be granted.

SECT. 18. That a well regulated militia is the proper, natural and ſafe defence of a free government.

SECT. 19. That ſtanding armies are dangerous to liberty, and ought not to be raiſed or kept up without the conſent of the Legiſlature.

SECT. 20. That in all caſes and at all times the military ought to be under ſtrict ſubordination to and governed by the civil power.

SECT. 21. That no ſoldier ought to be quartered in any houſe in time of peace without the conſent of the owner; and in time of war in ſuch manner only as the Legiſlature ſhall direct.

SECT. 22. That the independency and uprightneſs of judges are eſſential to the impartial adminiſtration of juſtice, and a great ſecurity to the rights and liberties of the people.

SECT. 23. That the liberty of the preſs ought to be inviolably preſerved.

September 20, 1776.

The Conſtitution or Syſtem of Government, agreed to and reſolved upon by the Repreſentatives in full Convention of the Delaware State, formerly ſtiled the Government of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, the ſaid Repreſentatives being choſen by the Freemen of the ſaid ſtate for that expreſs purpoſe.

Style. ART. 1. THE government of the counties of New-Caſtle, Kent and Suſſex, upon Delaware, ſhall hereafter in all public and other writings be called, *The Delaware State.*

Of the Legiſlative power. ART. 2. The Legiſlature ſhall be formed of two diſtinct branches: They ſhall meet once or oftener in every year, and ſhall be called, *The General Aſſembly of Delaware.*

Houſe of Aſſembly. ART. 3. One of the branches of the Legiſlature ſhall be called, *The Houſe of Aſſembly*, and ſhall conſiſt of ſeven Repreſentatives, to be choſen for each county annually of ſuch perſons as are freeholders of the ſame.

The Council. ART. 4. The other branch ſhall be called, *The Council*, and conſiſt of nine Members, three to be choſen for each county at the time of the firſt election of the Aſſembly, who ſhall be freeholders of the county for which they are choſen, and be upwards of twenty-five years of age. At the end of one year after the general election, the Counſellor who had the ſmalleſt number of votes in each county ſhall be diſplaced, and the vacancies thereby occaſioned ſupplied by the freemen of each county chooſing the ſame or another perſon at a new election in manner aforeſaid. At the end of two years after the firſt general election, the Counſellor who ſtood ſecond in number of votes in each county ſhall be diſplaced, and the vacancies thereby occaſioned ſupplied by a new election in manner aforeſaid. And at the end of three years from the firſt general election, the Counſellor who had the greateſt number of votes in each county ſhall be diſplaced, and the vacancies thereby occaſioned ſupplied by a new election in manner aforeſaid. And this rotation of a Counſellor being diſplaced at the end of three years in each county and his office ſupplied by

a new choice ſhall be continued afterwards in due order annually forever, whereby, after the firſt general election, a Counſellor will remain in truſt for three years from the time of his being elected, and a Counſellor will be diſplaced, and the ſame or another choſen in each county at every election. A. D. 1776.

ART. 5. The right of ſuffrage in the election of Members for both Houſes ſhall remain as exerciſed by law at preſent; and each Houſe ſhall chooſe its own Speaker, appoint its own officers, judge of the qualifications and elections of its own Members, ſettle its own rules of proceedings, and direct writs of election for ſupplying intermediate vacancies. They may alſo ſeverally expel any of their own Members for miſbehaviour, but not a ſecond time in the ſame ſeſſions for the ſame offence, if re-elected; and they ſhall have all other powers neceſſary for the Legiſlature of a free and independent ſtate. Of the right of ſuffrage, and powers of the Houſes.

ART. 6. All money bills for the ſupport of government ſhall originate in the Houſe of Aſſembly, and may be altered, amended or rejected by the Legiſlative Council. All other bills and ordinances may take riſe in the Houſe of Aſſembly or Legiſlative Council, and may be altered, amended or rejected by either. Of originating money bills.

ART. 7. A Preſident, or Chief Magiſtrate ſhall be choſen by joint ballot of both Houſes, to be taken in the Houſe of Aſſembly, and the box examined by the Speakers of each Houſe in the preſence of the other Members, and in caſe the numbers for the two higheſt in votes ſhould be equal, then the Speaker of the Council ſhall have an additional caſting voice, and the appointment of the perſon who has the majority of votes ſhall be entered at large on the minutes and journals of each Houſe, and a copy thereof on parchment, certified and ſigned by the Speakers reſpectively, and ſealed with the Great Seal of the ſtate, which they are hereby authoriſed to affix, ſhall be delivered to the perſon ſo choſen Preſident, who ſhall continue in that office three years and until the ſitting of the next General Aſſembly and no longer, nor be eligible until the expiration of three years after he ſhall have been out of that office. An adequate but moderate Of the election of Preſident.

ſalary

A. D. 1776.

salary shall be settled on him during his continuance in office. He may draw for such sums of money as shall be appropriated by the General Assembly, and be accountable to them for the same. He may by and with the advice of the Privy Council lay embargoes or prohibit the exportation of any commodity for any time not exceeding thirty days in the recess of the General Assembly. He shall have the power of granting pardons or reprieves, except where the prosecution shall be carried on by the House of Assembly, or the law shall otherwise direct, in which cases no pardon or reprieve shall be granted but by a resolve of the House of Assembly: And may exercise all the other executive powers of government, limited and restrained as by this constitution is mentioned, and according to the laws of the state. And on his death, inability or absence from the state, the Speaker of the Legislative Council for the time being shall be Vice President, and in case of his death, inability or absence from the state, the Speaker of the House of Assembly shall have the powers of a President until a new nomination is made by the General Assembly.

His general powers.

Of the Privy Council.

ART. 8. A Privy Council consisting of four Members shall be chosen by ballot, two by the Legislative Council, and two by the House of Assembly: Provided, that no regular officer of the army or navy in the service and pay of the Continent, or of this, or of any other state shall be eligible. And a Member of the Legislative Council or of the House of Assembly being chosen of the Privy Council and accepting thereof shall thereby lose his seat. Three Members shall be a quorum, and their advice and proceedings shall be entered of record and signed by the Members present, (to any part of which any Member may enter his dissent) to be laid before the General Assembly when called for by them. Two Members shall be removed by ballot, one by the Legislative Council and one by the House of Assembly at the end of two years, and those who remain the next year after, who shall severally be ineligible for the three next years. These vacancies as well as those occasioned by death or incapacity shall be supplied by new elections in the same manner. And this rotation of a Privy Counsellor

shall

A. D. 1776.

ſhall be continued afterwards in due order annually forever. The Preſident may by ſummons convene the Privy Council at any time when the public exigences may require, and at ſuch place as he ſhall think moſt convenient, when and where they are to attend accordingly.

Of the Preſident's military powers.

ART. 9. The Preſident, with the advice and conſent of the Privy Council, may embody the militia, and act as Captain General and Commander in Chief of them and the other military force of this ſtate under the laws of the ſame.

Of adjournment, and convening the General Aſſembly.

ART. 10. Either Houſe of the General Aſſembly may adjourn themſelves reſpectively. The Preſident ſhall not prorogue, adjourn or diſſolve the General Aſſembly, but he may with the advice of the Privy Council or on the application of a majority of either Houſe, call them before the time they ſhall ſtand adjourned, and the two Houſes ſhall always ſit at the ſame time and place, for which purpoſe immediately after every adjournment the Speaker of the Houſe of Aſſembly ſhall give notice to the Speaker of the other Houſe of the time to which the Houſe of Aſſembly ſtands adjourned.

Of the appointment of Delegates,

ART. 11. The Delegates for Delaware to the Congreſs of the United States of America ſhall be choſen annually, or ſuperſeded in the mean time, by joint ballot of both Houſes in the General Aſſembly.

Judges,

ART. 12. The Preſident and General Aſſembly ſhall by joint ballot appoint three Juſtices of the Supreme Court for the ſtate, one of whom ſhall be Chief Juſtice, and a Judge of Admiralty, and alſo four Juſtices of the Courts of Common Pleas and Orphans Courts, for each county, one of whom in each court ſhall be ſtiled Chief Juſtice, (and in caſe of diviſion on the ballot, the Preſident ſhall have an additional caſting voice) to be commiſſioned by the Preſident under the Great Seal, who ſhall continue in office during good behaviour; and during the time the Juſtices of the ſaid Supreme Court and Courts of Common Pleas remain in office they ſhall hold none other except in the militia—Any one of the Juſtices of either of ſaid courts ſhall have power in caſe of the non coming of his brethren to open and adjourn the court. An adequate

A. D. 1776.

quate fixed but moderate ſalary ſhall be ſettled on them during their continuance in office. The Preſident and Privy Council ſhall appoint the Secretary, the Attorney General, Regiſters for the probate of wills and granting letters of adminiſtration, Regiſters in Chancery, Clerks of the Courts of Common Pleas and Orphans Courts, and Clerks of the Peace, who ſhall be commiſſioned as aforeſaid, and remain in office during five years, if they behave themſelves well; during which time the ſaid Regiſters in Chancery and Clerks ſhall not be Juſtices of either of the ſaid courts of which they are officers, but they ſhall have authority to ſign all writs by them iſſued, and take recognizances of bail. The Juſtices of the Peace ſhall be nominated by the Houſe of Aſſembly, *That is to ſay*, They ſhall name twenty-four perſons for each county, of whom the Preſident, with the approbation of the Privy Council, ſhall appoint twelve, who ſhall be commiſſioned as aforeſaid, and continue in office during ſeven years, if they behave themſelves well; and in caſe of vacancies, or if the Legiſlature ſhall think proper to increaſe the number, they ſhall be nominated and appointed in like manner. The Members of the Legiſlative and Privy Councils ſhall be Juſtices of the Peace for the whole ſtate, during their continuance in truſt; and the Juſtices of the Courts of Common Pleas ſhall be Conſervators of the Peace in their reſpective counties.

Miniſterial officers,

Juſtices of the Peace, &c.

Of the Chancery.

ART. 13. The Juſtices of the Courts of Common Pleas and Orphans Courts ſhall have the power of holding Inferior Courts of Chancery as heretofore, unleſs the Legiſlature ſhall otherwiſe direct.

Of the appointment of Clerks of Supreme Court and Recorders,

ART. 14. The Clerks of the Supreme Court ſhall be appointed by the Chief Juſtice thereof, and the Recorders of Deeds by the Juſtices of the Courts of Common Pleas for each county ſeverally, and commiſſioned by the Preſident under the Great Seal, and continue in office five years, if they behave themſelves well.

Sheriffs and Coroners,

ART. 15. The Sheriffs and Coroners of the reſpective counties ſhall be choſen annually as heretofore; and any perſon having ſerved three years as Sheriff ſhall be ineligible for three years after; and the Preſident

ſident and Privy Council ſhall have the appointment of ſuch of the two candidates returned for ſaid offices of Sheriff and Coroner as they ſhall think beſt qualified, in the ſame manner that the Governor heretofore enjoyed this power. A. D. 1776.

ART. 16. The General Aſſembly by joint ballot ſhall appoint the Generals and Field Officers, and all other officers in the army or navy of this ſtate. And the Preſident may appoint during pleaſure, until otherwiſe directed by the Legiſlature, all neceſſary civil officers not herein before mentioned. Military and naval officers.

ART. 17. There ſhall be an appeal from the Supreme Court of Delaware in matters of law and equity to a court of ſeven perſons, to conſiſt of the Preſident for the time being, who ſhall preſide therein, and ſix others, to be appointed, three by the Legiſlative Council and three by the Houſe of Aſſembly, who ſhall continue in office during good behaviour, and be commiſſioned by the Preſident under the Great Seal, which court ſhall be ſtiled, *The Court of Appeals*, and have all the authority and powers heretofore given by law in the laſt reſort to the King in Council under the old government. The Secretary ſhall be the Clerk of this Court, and vacancies therein occaſioned by death or incapacity ſhall be ſupplied by new elections in manner aforeſaid. Of the Court of Appeals.

ART. 18. The Juſtices of the Supreme Court and Courts of Common Pleas, the Members of the Privy Council, the Secretary, the Truſtees of the Loan Office and Clerks of the Courts of Common Pleas, during their continuance in office, and all perſons concerned in any army or navy contracts, ſhall be ineligible to either Houſe of Aſſembly; and any Member of either Houſe accepting of any other of the offices herein before mentioned (excepting the office of a Juſtice of the Peace) ſhall have his ſeat thereby vacated, and a new election ſhall be ordered. Perſons ineligible to either Houſe of the Legiſlature.

ART. 19. The Legiſlative Council and Aſſembly ſhall have the power of making the Great Seal of this ſtate, which ſhall be kept by the Preſident, or in his abſence by the Vice-Preſident, to be uſed by them as occaſion may require. It ſhall be called, *The Great Seal* Great Seal.

A. D. 1776.

Seal of the Delaware State, and ſhall be affixed to all laws and commiſſions.

Stile of commiſſions, &c.

ART. 20. Commiſſions ſhall run in the name of *The Delaware State*, and bear teſt by the Preſident. Writs ſhall run in the ſame manner, and bear teſt in the name of the Chief Juſtice or Juſtice firſt named in the commiſſions for the ſeveral courts, and be ſealed with the public ſeals of ſuch courts. Indictments ſhall conclude, *againſt the peace and dignity of the ſtate.*

Of ſupplying vacancies.

ART. 21. In caſe of vacancy of the offices above directed to be filled by the Preſident and General Aſſembly, the Preſident and Privy Council may appoint others in their ſtead until there ſhall be a new election.

Of the oath of allegiance, &c.

ART. 22. Every perſon, who ſhall be choſen a Member of either Houſe, or appointed to any office or place of truſt, before taking his ſeat, or entering upon the execution of his office, ſhall take the following oath, or affirmation if conſcientiouſly ſcrupulous of taking an oath, *to wit.*

I A. B. will bear true allegiance to the Delaware State, ſubmit to its conſtitution and laws, and do no act wittingly whereby the freedom thereof may be prejudiced.

And alſo make and ſubſcribe the following declaration, *to wit.*

I A. B. do profeſs faith in God the Father, and in Jeſus Chriſt his only Son, and in the Holy Ghoſt, one God bleſſed for evermore; and I do acknowledge the Holy Scriptures of the Old and New Teſtament to be given by divine inſpiration.

And all officers ſhall alſo take an oath of office.

Of impeachment.

ART. 23. The Preſident when he is out of office and within eighteen months after, and all others, offending againſt the ſtate either by mal-adminiſtration, corruption or other means, by which the ſafety of the commonwealth may be endangered, within eighteen months after the offence committed, ſhall be impeachable by the Houſe of Aſſembly before the Legiſlative Council: Such impeachment to be proſecuted by the Attorney General or ſuch other perſon or perſons as the Houſe of Aſſembly may appoint, according to the laws of the land. If found guilty, he or they ſhall be either forever diſabled to hold any

office

office under government, or removed from office *pro tempore*, or ſubjected to ſuch pains and penalties as the laws ſhall direct. And all officers ſhall be removed on conviction of miſbehaviour at common law or on impeachment, or upon the addreſs of the General Aſſembly. A. D. 1776.

ART. 24. All acts of Aſſembly in force in this ſtate on the fifteenth day of May laſt (and not hereby altered, or contrary to the reſolutions of Congreſs, or of the late Houſe of Aſſembly of this ſtate) ſhall ſo continue until altered or repealed by the Legiſlature of this ſtate, unleſs where they are temporary, in which caſe they ſhall expire at the times reſpectively limited for their duration. Of the laws in force.

ART. 25. The common law of England, as well as ſo much of the ſtatute law as have been heretofore adopted in practice in this ſtate, ſhall remain in force, unleſs they ſhall be altered by a future law of the Legiſlature; ſuch parts only excepted as are repugnant to the rights and privileges contained in this conſtitution and the declaration of rights, *&c.* agreed to by this convention. Of the common law.

ART. 26. No perſon hereafter imported into this ſtate from Africa ought to be held in ſlavery under any pretence whatever, and no Negro, Indian or Mulatto ſlave, ought to be brought into this ſtate for ſale from any part of the world. No ſlaves to be imported.

ART. 27. The firſt election for the General Aſſembly of this ſtate ſhall be held on the twenty-firſt day of October next, at the Court Houſes in the ſeveral counties, in the manner heretofore uſed in the election of the Aſſembly, except as to the choice of Inſpectors and Aſſeſſors, where Aſſeſſors have not been choſen on the ſixteenth day of September inſtant, which ſhall be made on the morning of the day of election by the electors, inhabitants of the reſpective hundreds in each county:—At which time the Sheriffs and Coroners for the ſaid counties reſpectively are to be elected: And the preſent Sheriffs of the counties of New-Caſtle and Kent may be re-choſen to that office until the firſt day of October in the year of our Lord One Thouſand Seven Hundred and Seventy-nine, and the preſent Sheriff for the county of Suſſex may be re- Of the time of holding the firſt election,

A. D. 1776.

choſen to that office until the firſt day of October in the year of our Lord One Thouſand Seven Hundred and Seventy-eight, provided the freemen think proper to re-elect them at every general election; and the preſent Sheriffs and Coroners reſpectively ſhall continue to exerciſe their offices as heretofore until the Sheriffs and Coroners to be elected on the ſaid twenty-firſt day of October ſhall be commiſſioned and ſworn into office. The Members of the Legiſlative Council and Aſſembly ſhall meet for tranſacting the buſineſs of the ſtate on the twenty-eighth day of October next, and continue in office until the firſt day of October which will be in the year One Thouſand Seven Hundred and Seventy-ſeven; on which day, and on the firſt day of October in each year forever after, the Legiſlative Council, Aſſembly, Sheriffs and Coroners, ſhall be choſen by ballot in manner directed by the ſeveral laws of this ſtate for regulating elections of Members of Aſſembly and Sheriffs and Coroners; and the General Aſſembly ſhall meet on the twentieth day of the ſame month for the tranſacting the buſineſs of the ſtate; and if any of the ſaid firſt and twentieth days of October ſhould be Sunday, then and in ſuch caſe the elections ſhall be held and the General Aſſembly meet the next day following.

and meeting of the Legiſlature under this conſtitution.

Of the freedom of election.

ART. 28. To prevent any violence or force being uſed at the ſaid elections, no perſons ſhall come armed to any of them; and no muſter of the militia ſhall be made on that day, nor ſhall any battalion or company give in their votes immediately ſucceeding each other, if any other voter who offers to vote objects thereto; nor ſhall any battalion or company in the pay of the Continent, or of this or any other ſtate, be ſuffered to remain at the time and place of holding the ſaid elections, nor within one mile of the ſaid places reſpectively for twenty-four hours before the opening ſaid elections, nor within twenty-four hours after the ſame are cloſed, ſo as in any manner to impede the freely and conveniently carrying on the ſaid election: *Provided always*, That every elector may in a peaceable and orderly manner give in his vote on the ſaid day of election.

ART. 29. There ſhall be no eſtabliſhment of any one

one religious ſect in this ſtate in preference to another; and no Clergyman or Preacher of the Goſpel of any denomination ſhall be capable of holding any civil office in this ſtate, or of being a Member of either of the branches of the Legiſlature while they continue in the exerciſe of the paſtoral function. A. D. 1776. Exclusion of the Clergy from office.

ART. 30. No article of the declaration of rights and fundamental rules of this ſtate, agreed to by this convention, nor the firſt, ſecond, fifth (except that part thereof that relates to the right of ſuffrage) twenty-ſixth and twenty-ninth articles of this conſtitution, ought ever to be violated on any pretence whatever. No other part of this conſtitution ſhall be altered, changed or diminiſhed, without the conſent of five parts in ſeven of the Aſſembly, and ſeven Members of the Legiſlative Council. What parts of this conſtitution alterable, &c.

Atteſt, GEORGE READ, Preſident.
JAMES BOOTH, Secretary.

Articles of Confederation and perpetual Union between the ſtates of New-Hampſhire, Maſſachuſetts-bay, Rhode-Iſland and Providence Plantations, Connecticut, New-York, New-Jerſey, Pennſylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia. A. D. 1778.

ARTICLE I. THE ſtile of this confederacy ſhall be *The United States of America.* Style.

ART. 2. Each ſtate retains its ſovereignty, freedom and independence, and every power, juriſdiction and right which is not by this confederation expreſſly delegated to the United States, in Congreſs Aſſembled. Sovereignty and rights retained by each ſtate.

ART. 3. The ſaid ſtates hereby ſeverally enter into a firm league of friendſhip with each other, for their common defence, the ſecurity of their liberties, and their mutual and general welfare, binding themſelves to aſſiſt each other, againſt all force offered to, or attacks made upon them, or any of them, on account of religion, ſovereignty, trade or any other pretence whatever. League for common defence, &c.

ART. 4. The better to ſecure and perpetuate mutual

A. D. 1778.

tual friendſhip and intercourſe among the people of the different ſtates, in this union, the free inhabitants of each of theſe ſtates, paupers, vagabonds, and fugitives from juſtice excepted, ſhall be entitled to all privileges and immunities of free citizens in the ſeveral ſtates; and the people of each ſtate ſhall have free ingreſs and regreſs to and from any other ſtate, and ſhall enjoy therein all the privileges of trade and commerce, ſubject to the ſame duties, impoſitions and reſtrictions as the inhabitants thereof reſpectively, provided that ſuch reſtrictions ſhall not extend ſo far as to prevent the removal of property imported into any ſtate, to any other ſtate of which the owner is an inhabitant: *Provided alſo*, That no impoſition, duties or reſtriction ſhall be laid by any ſtate, on the property of the United States, or either of them.

Freedom of intercourſe.

If any perſon guilty of, or charged with treaſon, felony, or other high miſdemeanour in any ſtate, ſhall flee from juſtice, and be found in any of the United States, he ſhall upon demand of the Governor, or Executive power of the ſtate from which he fled, be delivered up and removed to the ſtate having juriſdiction of his offence.

Of fugitives from juſtice.

Full faith and credit ſhall be given in each of theſe ſtates to the records, acts and judicial proceedings of the courts and magiſtrates of every other ſtate.

Of records, &c.

ART. 5. For the more convenient management of the general intereſts of the United States, Delegates ſhall be annually appointed in ſuch manner as the Legiſlature of each ſtate ſhall direct, to meet in Congreſs on the firſt Monday in November, in every year, with a power reſerved to each ſtate, to recal its Delegates, or any of them, at any time within the year, and to ſend others in their ſtead, for the remainder of the year.

Of an annual Congreſs.

No ſtate ſhall be repreſented in Congreſs by leſs than two, nor more than ſeven Members; and no perſon ſhall be capable of being a Delegate for more than three years, in any term of ſix years; nor ſhall any perſon, being a Delegate, be capable of holding any office under the United States, for which he, or any other for his benefit receives any ſalary, fees or emolument of any kind.

Repreſentation of each ſtate.

Each ſtate ſhall maintain its own Delegates in a meeting

Of maintenance of Delegates.

meeting of the ſtates, and while they act as Members of the Committee of the ſtates. A. D. 1778.

In determining queſtions in the United States, in Congreſs aſſembled, each ſtate ſhall have one vote. Each ſtate to have one vote.

Freedom of ſpeech and debate in Congreſs ſhall not be impeached or queſtioned in any court, or place out of Congreſs, and the Members of Congreſs ſhall be protected in their perſons from arreſts and impriſonments, during the time of their going to and from, and attendance on Congreſs, except for treaſon, felony, or breach of the peace. Of freedom of debate.

Art. 6. No ſtate without the conſent of the United States in Congreſs aſſembled, ſhall ſend any embaſſy to, or receive any embaſſy from, or enter into any conference, agreement, alliance or treaty with any king, prince or ſtate; nor ſhall any perſon holding any office of profit or truſt under the United States, or any of them, accept of any preſent, emolument, office or title of any kind whatever from any king, prince or foreign ſtate; nor ſhall the United States in Congreſs aſſembled, or any of them, grant any title of nobility. Reſtrictions on the powers of the ſtates.

No two or more ſtates ſhall enter into any treaty, confederation or alliance whatever between them, without the conſent of the United States in Congreſs aſſembled, ſpecifying accurately the purpoſes for which the ſame is to be entered into, and how long it ſhall continue.

No ſtate ſhall lay any impoſts or duties, which may interfere with any ſtipulations in treaties, entered into by the United States in Congreſs aſſembled, with any king, prince or ſtate, in purſuance of any treaties already propoſed by Congreſs, to the courts of France and Spain.

No veſſels of war ſhall be kept up in time of peace by any ſtate, except ſuch number only, as ſhall be deemed neceſſary by the United States in Congreſs aſſembled, for the defence of ſuch ſtate, or its trade; nor ſhall any body of forces be kept up by any ſtate, in time of peace, except ſuch number only, as in the judgment of the United States, in Congreſs aſſembled, ſhall be deemed requiſite to garriſon the forts neceſſary for the defence of ſuch ſtate; but every ſtate ſhall always

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always keep up a well regulated and diſciplined militia, ſufficiently armed and accoutred, and ſhall provide and conſtantly have ready for uſe, in public ſtores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No ſtate ſhall engage in any war without the conſent of the United States in Congreſs aſſembled, unleſs ſuch ſtate be actually invaded by enemies, or ſhall have received certain advice of a reſolution being formed by ſome nation of Indians to invade ſuch ſtate, and the danger is ſo imminent as not to admit of a delay, till the United States in Congreſs aſſembled can be conſulted; nor ſhall any ſtate grant commiſſions to any ſhips or veſſels of war, nor letters of marque or repriſal, except it be after a declaration of war by the United States in Congreſs aſſembled, and then only againſt the kingdom or ſtate and the ſubjects thereof, againſt which war has been ſo declared, and under ſuch regulations as ſhall be eſtabliſhed by the United States in Congreſs aſſembled, unleſs ſuch ſtate be infeſted by pirates, in which caſe veſſels of war may be fitted out for that occaſion, and kept ſo long as the danger ſhall continue, or until the United States in Congreſs aſſembled ſhall determine otherwiſe.

Of the appointment of Regimental Officers.

ART. 7. When land forces are raiſed by any ſtate for the common defence, all officers of or under the rank of Colonel, ſhall be appointed by the Legiſlature of each ſtate reſpectively, by whom ſuch forces ſhall be raiſed, or in ſuch manner as ſuch ſtate ſhall direct, and all vacancies ſhall be filled up by the ſtate which firſt made the appointment.

Charges incurred for common defence, &c. how defrayed.

ART. 8. All charges of war, and all other expences that ſhall be incurred for the common defence or general welfare, and allowed by the United States in Congreſs aſſembled, ſhall be defrayed out of a common treaſury, which ſhall be ſupplied by the ſeveral ſtates, in proportion to the value of all land within each ſtate, granted to or ſurveyed for any perſon, as ſuch land and the buildings and improvements thereon ſhall be eſtimated according to ſuch mode as the United States in Congreſs aſſembled, ſhall from time

Altered, ſee Vol. II. p. 785.

to

to time direct and appoint. The taxes for paying that proportion ſhall be laid and levied by the authority and direction of the Legiſlatures of the ſeveral ſtates within the time agreed upon by the United States in Congreſs aſſembled. A. D. 1778.

ART. 9. The United States in Congreſs aſſembled, ſhall have the ſole and excluſive right and power of determining on peace and war, except in the caſes mentioned in the ſixth article; of ſending and receiving Ambaſſadors; entering into treaties and alliances, provided that no treaty of commerce ſhall be made whereby the Legiſlative power of the reſpective ſtates ſhall be reſtrained from impoſing ſuch impoſts and duties on foreigners, as their own people are ſubjected to, or from prohibiting the exportation or importation of any ſpecies of goods or commodities whatſoever; of eſtabliſhing rules for deciding in all caſes, what captures on land or water ſhall be legal, and in what manner prizes taken by land or naval forces in the ſervice of the United States ſhall be divided or appropriated; of granting letters of marque and repriſal in times of peace; appointing courts for the trial of piracies and felonies committed on the high ſeas, and eſtabliſhing courts for receiving and determining finally appeals in all caſes of captures, provided that no Member of Congreſs ſhall be appointed a judge of any of the ſaid courts. Powers of the United States in Congreſs aſſembled.

The United States in Congreſs aſſembled ſhall alſo be the laſt reſort on appeal in all diſputes and differences now ſubſiſting or that hereafter may ariſe between two or more ſtates concerning boundary, juriſdiction or any other cauſe whatever; which authority ſhall always be exerciſed in the manner following: Whenever the Legiſlative or Executive authority or lawful agent of any ſtate in controverſy with another ſhall preſent a petition to Congreſs, ſtating the matter in queſtion and praying for a hearing, notice thereof ſhall be given by order of Congreſs to the Legiſlative or Executive authority of the other ſtate in controverſy, and a day aſſigned for the appearance of the parties by their lawful agents, who ſhall then be directed to appoint by joint conſent, Commiſſioners or Judges to conſtitute a court for hearing Congreſs to be the laſt reſort on appeal.

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hearing and determining the matter in queſtion: But if they cannot agree, Congreſs ſhall name three perſons out of each of the United States, and from the liſt of ſuch perſons each party ſhall alternately ſtrike out one, the petitioners beginning, until the number ſhall be reduced to thirteen; and from that number not leſs than ſeven, nor more than nine names as Congreſs ſhall direct, ſhall in the preſence of Congreſs be drawn out by lot, and the perſons whoſe names ſhall be ſo drawn, or any five of them, ſhall be Commiſſioners or Judges, to hear and finally determine the controverſy, ſo always as a major part of the judges who ſhall hear the cauſe ſhall agree in the determination; and if either party ſhall neglect to attend at the day appointed, without ſhewing reaſons, which Congreſs ſhall judge ſufficient, or being preſent ſhall refuſe to ſtrike, the Congreſs ſhall proceed to nominate three perſons out of each ſtate, and the Secretary of Congreſs ſhall ſtrike in behalf of ſuch party abſent or refuſing; and the judgment and ſentence of the court to be appointed, in the manner before preſcribed, ſhall be final and concluſive; and if any of the parties ſhall refuſe to ſubmit to the authority of ſuch court, or to appear or defend their claim or cauſe, the court ſhall nevertheleſs proceed to pronounce ſentence, or judgment, which ſhall in like manner be final and deciſive, the judgment or ſentence and other proceedings being in either caſe tranſmitted to Congreſs, and lodged among the acts of Congreſs for the ſecurity of the parties concerned: Provided, that every Commiſſioner, before he fits in judgment, ſhall take an oath to be adminiſtered by one of the Judges of the Supreme or Superior Court of the ſtate, where the cauſe ſhall be tried, *well and truly to hear and determine the matter in queſtion, according to the beſt of his judgment, without favour, affection, or hope of reward: Provided alſo,* That no ſtate ſhall be deprived of territory for the benefit of the United States.

Of controverſies concerning the private right of ſoil claimed by grants of different ſtates.

All controverſies, concerning the private right of ſoil claimed under different grants of two or more ſtates, whoſe juriſdictions as they may reſpect ſuch lands, and the ſtates which paſſed ſuch grants are adjuſted, the ſaid grants or either of them being at the

ſame

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ſame time claimed to have originated antecedent to ſuch ſettlement of juriſdiction, ſhall on the petition of either party to the Congreſs of the United States, be finally determined as near as may be in the ſame manner as is before preſcribed for deciding diſputes reſpecting territorial juriſdiction between different ſtates.

Power of regulating the value of coin, &c.

The United States in Congreſs aſſembled ſhall alſo have the ſole and excluſive right and power of regulating the alloy and value of coin ſtruck by their own authority, or by that of the reſpective ſtates; fixing the ſtandard of weights and meaſures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the ſtates, provided that the Legiſlative right of any ſtate within its own limits be not infringed or violated; eſtabliſhing and regulating Poſt Offices from one ſtate to another, throughout all the United States, and exacting ſuch poſtage on the papers paſſing through the ſame as may be requiſite to defray the expences of the ſaid office; appointing all officers of the land forces, in the ſervice of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commiſſioning all officers whatever in the ſervice of the United States; making rules for the government and regulation of the ſaid land and naval forces, and directing their operations.

Of the appointment of a Committee of the States.

The United States in Congreſs aſſembled ſhall have authority to appoint a Committee, to ſit in the receſs of Congreſs, to be denominated, *A Committee of the States*, and to conſiſt of one Delegate from each ſtate; and to appoint ſuch other Committees and Civil Officers as may be neceſſary for managing the general affairs of the United States under their direction; to appoint one of their number to preſide, provided that no perſon be allowed to ſerve in the office of Preſident more than one year in any term of three years; to aſcertain the neceſſary ſums of money to be raiſed for the ſervice of the United States, and to appropriate and apply the ſame for defraying the public expences; to borrow money or emit bills on the credit of the United States, tranſmitting every half year to the reſpective ſtates an account of the ſums of money

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borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requiſitions from each ſtate for its quota, in proportion to the number of white inhabitants in ſuch ſtate; which requiſition ſhall be binding, and thereupon the Legiſlature of each ſtate ſhall appoint the Regimental Officers, raiſe the men, and clothe, arm and equip them in a ſoldier-like manner, at the expenſe of the United States, and the officers and men ſo clothed, armed and equipped ſhall march to the place appointed, and within the time agreed on by the United States in Congreſs aſſembled: But, if the United States in Congreſs aſſembled ſhall, on conſideration of circumſtances, judge proper that any ſtate ſhould not raiſe men, or ſhould raiſe a ſmaller number than its quota, and that any other ſtate ſhould raiſe a greater number of men than the quota thereof, ſuch extra number ſhall be raiſed, officered, clothed, armed and equipped in the ſame manner as the quota of ſuch ſtate, unleſs the Legiſlature of ſuch ſtate ſhall judge that ſuch extra number cannot be ſafely ſpared out of the ſame, in which caſe they ſhall raiſe, officer, clothe, arm and equip as many of ſuch extra number as they judge can be ſafely ſpared. And the officers and men ſo clothed, armed and equipped, ſhall march to the place appointed, and within the time agreed on by the United States in Congreſs aſſembled.

What meaſures ſhall require the aſſent of nine ſtates.

The United States in Congreſs aſſembled ſhall never engage in a war, nor grant letters of marque and repriſal, in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor aſcertain the ſums and expences neceſſary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of veſſels of war, to be built or purchaſed, or the number of land or ſea forces to be raiſed, nor appoint a Commander in Chief of the army or navy, unleſs nine ſtates aſſent to the ſame: Nor ſhall a queſtion on any other point, except for adjourning from day to day, be determined,

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ed, unleſs by the votes of a majority of the United States in Congreſs aſſembled.

Of adjournments,

The Congreſs of the United States ſhall have power to adjourn to any time within the year, and to any place within the United States, ſo that no period of adjournment be for a longer duration than the ſpace of ſix months, and ſhall publiſh the journal of their proceedings monthly, except ſuch parts thereof relating to treaties, alliances, or military operations, as in their judgment require ſecrecy; and the yeas and nays of the Delegates of each ſtate on any queſtion ſhall be entered on the journal, when it is deſired by any Delegate; and the Delegates of a ſtate, or any of them, at his or their requeſt ſhall be furniſhed with a tranſcript of the ſaid journal, except ſuch parts as are above excepted, to lay before the Legiſlatures of the ſeveral ſtates.

and journals of Congreſs.

Of the powers to be veſted in the Committee of the States.

ART. 10. The Committee of the ſtates, or any nine of them, ſhall be authoriſed to execute, in the receſs of Congreſs, ſuch of the powers of Congreſs as the United States in Congreſs aſſembled, by the conſent of nine ſtates, ſhall from time to time think expedient to veſt them with; provided that no power be delegated to the ſaid Committee, for the exerciſe of which, by the articles of confederation, the voice of nine ſtates in the Congreſs of the United States aſſembled is requiſite.

Canada may be admitted into the Union.

ART. 11. Canada acceding to this confederation, and joining in the meaſures of the United States, ſhall be admitted into, and entitled to all the advantages of this Union: But no other colony ſhall be admitted into the ſame, unleſs ſuch admiſſion be agreed to by nine ſtates.

Of bills of credit, &c.

ART. 12. All bills of credit emitted, monies borrowed and debts contracted, by or under the authority of Congreſs, before the aſſembling of the United States, in purſuance of the preſent confederation, ſhall be deemed and conſidered as a charge againſt the United States, for payment and ſatisfaction whereof the ſaid United States, and the public faith are hereby ſolemnly pledged.

ART. 13. Every ſtate ſhall abide by the determinations of the United States, in Congreſs aſſembled,

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on all queſtions which by this confederation are ſubmitted to them. And the articles of this confederation ſhall be inviolably obſerved by every ſtate, and the Union ſhall be perpetual; nor ſhall any alteration at any time hereafter be made in any of them; unleſs ſuch alteration be agreed to in a Congreſs of the United States, and be afterwards confirmed by the Legiſlatures of every ſtate.

And whereas it hath pleaſed the Great Governor of the world to incline the hearts of the Legiſlatures we reſpectively repreſent in Congreſs, to approve of, and to authoriſe us to ratify the ſaid articles of confederation and perpetual union, *Know ye*, That we the underſigned Delegates, by virtue of the power and authority to us given for that purpoſe, do, by theſe preſents, in the name and in behalf of our reſpective conſtituents, fully and entirely ratify and confirm each and every of the ſaid articles of confederation and perpetual union, and all and ſingular the matters and things therein contained. And we do further ſolemnly plight and engage the faith of our reſpective conſtituents, that they ſhall abide by the determinations of the United States in Congreſs aſſembled, on all queſtions which by the ſaid confederation are ſubmitted to them; and that the articles thereof ſhall be inviolably obſerved by the ſtates we reſpectively repreſent; and that the union ſhall be perpetual; In witneſs whereof we have hereunto ſet our hands in Congreſs.

DONE at Philadelphia, in the ſtate of Pennſylvania, the ninth day of July, in the year of our Lord One Thouſand Seven Hundred and Seventy-eight, and in the third year of the independence of America.

New-Hampſhire.
Joſiah Bartlett,
John Wentworth, jun.

Maſſachuſetts Bay.
John Hancock,
Samuel Adams,
Elbridge Gerry,
Francis Dana,
James Lovell,
Samuel Holten.

Rhode Iſland and *Providence Plantations.*
William Ellery,
Henry Marchant,
John Collins.

Connecticut.

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Connecticut.
Roger Sherman,
Samuel Huntington,
Oliver Wolcott,
Titus Hoſmer,
Andrew Adams.

New-York.
James Duane,
Francis Lewis,
William Duer,
Governeur Morris.

New-Jerſey.
John Witherſpoon,
Nathaniel Scudder.

Pennſylvania.
Robert Morris,
Daniel Roberdeau,
Jonathan Bayard Smith,
William Clingan,
Joſeph Reed.

Delaware.
Thomas M'Kean,
John Dickinſon,
Nicholas Vandyke.

Maryland.
John Hanſon,
Daniel Carroll.

Virginia.
Richard Henry Lee,
John Baniſter,
Thomas Adams,
John Harvey,
Francis Lightfoot Lee.

North-Carolina.
John Penn,
Cornelius Harnett,
John Williams.

South-Carolina.
Henry Laurens,
William Henry Drayton,
John Matthews,
Richard Hutſon,
Thomas Hayward, jun.

Georgia.
John Walton,
Edward Telfair,
Edward Langworthy.

☞ *The aforeſaid articles of confederation were finally ratified on the firſt day of March, One Thouſand Seven Hundred and Eighty-one.*

END OF THE APPENDIX.